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**United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects**
9-20 July 2001

# Reports of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects

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# Part one
# Report of the first session of the Preparatory Committee*

## 28 February-3 March 2000

## I. Introduction

1. At its fifty-fourth session, the General Assembly adopted resolution 54/54 V of 15 December 1999, the operative part of which reads as follows:

"*The General Assembly*,

"...

"1. *Decides* to convene the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in June/July 2001;

"2. *Also decides* that the scope of the Conference shall be the illicit trade in small arms and light weapons in all its aspects;

"3. *Further decides* to establish a preparatory committee open to participation by all States, which will hold no fewer than three sessions, the first session to be held in New York from 28 February to 3 March 2000;

"4. *Decides* that the specialized agencies, other relevant intergovernmental organizations and relevant entities, having received a standing invitation to participate as observers in the sessions and in the work of the General Assembly, shall participate, as observers, in the Preparatory Committee, and requests the Committee to take a decision on the modalities of attendance of non-governmental organizations at its sessions;

"5. *Requests* the Preparatory Committee to decide, at its first session, on the date and venue of the Conference in 2001 as well as on the dates and venue of its subsequent sessions;

"6. *Stresses* the need to ensure the widest possible and effective participation in the Conference in 2001;

"7. *Requests* the Preparatory Committee to make recommendations to the Conference on all relevant matters, including the objective, a draft agenda, draft rules of procedure and draft final documents, which will include a programme of action, and to decide on background documents to be made available in advance;

"8. *Invites* all Member States, in particular those that have not yet done so, in response to the note verbale of the Secretary-General dated 20 January 1999, to communicate to the Secretary-General their views on the agenda and other relevant questions relating to the Conference;

"9. *Requests* the Secretary-General to transmit the replies of Member States relevant to paragraph 8 above to the Preparatory Committee and to render the Preparatory Committee and the Conference all necessary assistance, including the provision of essential background information, relevant documents and summary records;

"10. *Endorses* the report of the Secretary-General on small arms, prepared with the assistance of the Group of Governmental Experts on Small Arms pursuant to General Assembly resolution 52/38 J [A/54/258], bearing in mind the views of Member States on the report;

"11. *Calls upon* all Member States to implement the relevant recommendations contained in section IV of that report to the extent possible and where necessary in cooperation with appropriate international and regional organizations and/or through international and regional cooperation;

"12. *Requests* the Secretary-General to seek the views of Member States on the report as well as on the implementation of the relevant recommendations contained therein;

"13. *Also requests* the Secretary-General to implement the relevant recommendations contained in section IV of the report within available financial resources and with any other assistance provided by States in a position to do so and in cooperation with appropriate

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international and regional organizations where necessary;

"14. *Further requests* the Secretary-General, in order to assist in preventing the illicit trafficking in and illicit circulation of small arms and light weapons:

"(a) To carry out a study, within available financial resources and with any other assistance provided by Member States in a position to do so, and with the assistance of governmental experts appointed by him, on the basis of equitable geographical representation, while seeking the views of Member States, on the feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, which will cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions;

"(b) To submit the study as one of the background documents for the Conference to be held in 2001;

"15. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled 'Small arms'."

2. The following States were represented at the first session of the Preparatory Committee: Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam and Yemen.

3. The following intergovernmental organizations and entities participated as observers in the first session of the Preparatory Committee: Caribbean Community, European Commission, Organization of the Islamic Conference, Organization of African Unity, International Committee of the Red Cross, Special Representative of the Secretary-General for Children and Armed Conflict, United Nations Centre for Human Settlements (Habitat), United Nations Children's Fund and United Nations Development Programme.

## II. Organization of the work of the Preparatory Committee

4. Pursuant to paragraph 3 of General Assembly resolution 54/54 V, the Preparatory Committee held its first session at United Nations Headquarters from 28 February to 3 March 2000. During the session, the Preparatory Committee held a total of 10 meetings, 4 of which were held as closed meetings. A total of four meetings were devoted to the general debate, in which 57 participating States delivered statements on the issue of the illicit trade in small arms and light weapons in all its aspects.

5. The Preparatory Committee elected the following officers:

*Chairman*:

Mr. Carlos Dos Santos (Mozambique)

*Vice-Chairmen*:

Mr. Yashar Aliyev (Azerbaijan)
Mr. Herbert Calhoun (United States of America)
Mr. Pierre Charasse (France)

Mr. Alioune Diagne (Senegal)
Ms. Dace Dobrāja (Latvia)
Mr. Mitsuro Donowaki (Japan)
Mr. Mário Duarte (Portugal)
Mr. Mark Gaillard (Canada)
Mr. Shen Guofang (China)
Mr. Samuel Insanally (Guyana)
Mr. Ismail Khairat (Egypt)
Mr. Valeri P. Kuchynski (Ukraine)
Mr. Fares Kuindwa (Kenya)
Mr. Gunnar Lindeman (Norway)
Mr. Filipe de Macedo Soares (Brazil)
Mr. Juan Miguel Miranda (Peru)
Mr. Hamid Baeidi Nejad (Islamic Republic of Iran)
Mr. Richard Pierce (Jamaica)
Mr. Denis Dangue Réwaka (Gabon)
Mr. Carlos D. Sorreta (Philippines)
Mr. Alyaksandr Sychov (Belarus)
Ms. Nury Vargas (Costa Rica)
Mr. Makmur Widodo (Indonesia)
Mr. Przemyslaw Wyganowski (Poland)

It was agreed that the endorsement of another Vice-Chairman from the Group of African States was being formalized.

*Rapporteur*:

At the 8th meeting, on 2 March, Mr. Gaillard (Canada) was elected as Rapporteur. At the 10th meeting on 3 March, he resigned as Rapporteur.

6. Ms. Agnès Marcaillou, Senior Political Affairs Officer, Department for Disarmament Affairs, served as Secretary of the Preparatory Committee.

7. At its 1st meeting, on 28 February 2000, the Preparatory Committee adopted its agenda (A/CONF.192/PC/1).

8. In its consideration of paragraph 5 of General Assembly resolution 54/54 V, concerning the request to the Preparatory Committee to decide, at its first session, on the date and the venue of the Conference in 2001 as well as on the dates and venue of its subsequent sessions, the Preparatory Committee had before it a non-paper prepared by the Secretariat containing a list of dates tentatively reserved in different venues.

9. Pursuant to paragraph 8 of the same resolution, inviting Member States to communicate their views on the agenda and other relevant questions relating to the Conference, the Secretary-General transmitted a note verbale dated 31 January 2000 to all Member States. The replies of three Member States, Argentina, Canada and Thailand (A/54/260/Add.1) were circulated during the first session of the Preparatory Committee.

10. The Preparatory Committee had before it the following reports of the Secretary-General:

(a) Report of the Secretary-General on the convening of an international conference on the illicit arms trade in all its aspects (A/54/260 and Add.1);

(b) Report of the Secretary-General on small arms, prepared with the assistance of the Group of Governmental Experts on Small Arms (A/54/258).

11. A number of delegations circulated the following papers:

(a) Letter dated 3 February 2000 from the Permanent Representative of Norway to the United Nations addressed to the Secretary-General, transmitting the documents of the second Oslo Meeting on Small Arms, held at Oslo on 6 and 7 December 1999 (A/54/739);

(b) Letter dated 24 February 2000 from the Permanent Representative of Costa Rica to the United Nations addressed to the Secretary-General, transmitting the text of the draft international code of conduct on arms transfers (A/54/766-S/2000/146);

(c) Letter dated 23 February 2000 from the Permanent Representative of Algeria to the United Nations addressed to the Under-Secretary-General for Disarmament Affairs, transmitting the text of decision AHG/DEC.137 (LXX) on the illicit proliferation, circulation and trafficking of small arms and light weapons, adopted by the Organization of African Unity, at its summit meeting held at Algiers from 12 to 14 July 1999 (A/CONF.192/PC/2);

(d) Note verbale dated 25 February 2000 from the Permanent Mission of Portugal to the United Nations, transmitting the text of the European Union Programme for Preventing and Combating Illicit Trafficking in Conventional Arms and the European Union Code of Conduct (A/CONF.192/PC/3);

(e) "Working paper on elements for a framework for cooperation and action on illicit trade in small arms and light weapons in all its aspects"

submitted by South Africa on 2 March 2000 (A/CONF.192/PC/5);

(f) "Elements for consideration in the substantive preparation for the 2001 Conference on the illicit trade in small arms and light weapons in all its aspects" submitted by the European Union on 2 March 2000 (A/CONF.192/PC/6);

(g) Note verbale dated 1 March 2000 from the Permanent Mission of France to the United Nations and note verbale dated 2 March from the Permanent Observer Mission of Switzerland to the United Nations transmitting the "food-for-thought paper" entitled "Contribution to the realization of an International Plan of Action in the context of the 2001 Conference: Marking, Identification, and Control of Small Arms and Light Weapons" (A/CONF.192/PC/7);

(h) Proposal dated 3 March 2000 submitted by Indonesia on behalf of the Movement of Non-Aligned Countries on "The Intersessional work of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects" (A/CONF.192/PC/8).

12. A list of delegations participating in the first session of the Preparatory Committee is contained in document A/CONF.192/PC/4.

13. Pursuant to the decision of the General Assembly of 15 December 1999 that summary records be provided for only those meetings at which decisions would be taken, summary records were provided for three meetings.

# III. Decisions of the Preparatory Committee

14. At its 10th meeting, on 3 March, the Preparatory Committee took the following decisions:

## A. Modalities of attendance of non-governmental organizations at sessions of the Preparatory Committee

15. The Preparatory Committee decided to defer its decision on the modalities of attendance of non-governmental organizations at its sessions.

## B. Dates and venues of the Conference in 2001 as well as of the subsequent sessions of the Preparatory Committee

16. At the request of the General Assembly, as contained in paragraph 5 of its resolution 54/54 V, the Preparatory Committee took the following decisions:

### (a) Date and venue of the Conference in 2001

The Preparatory Committee decided to defer its decision on the date and venue of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects to the General Assembly at its fifty-fifth session.

### (b) Dates and venues of subsequent sessions of the Preparatory Committee

The Preparatory Committee decided to hold its second session from 8 to 19 January 2001 at United Nations Headquarters in New York. It further decided to hold its third session from 19 to 30 March 2001. The Committee noted the kind offer of the delegation of Kenya to host its third session, and decided that the Secretariat would convey to that delegation the financial implications of the offer so that a decision could be taken by the General Assembly at its fifty-fifth session.

## C. Decision on background documents to be made available in advance

17. The Preparatory Committee decided to continue its consideration of this item.

# IV. Recommendations of the Preparatory Committee to the Conference

18. At its 10th meeting, on 3 March 2000, in its consideration of paragraph 7 of resolution 54/54 V, the Preparatory Committee decided to continue its consideration of recommendations to the Conference on all relevant matters, including the objective, a draft agenda, draft rules of procedure and draft final documents, which would include a programme of action.

# Part two
# Report of the second session of the Preparatory Committee*

## 8-19 January 2001

## I. Introduction

1. At its fifty-fourth session, the General Assembly adopted resolution 54/54 V of 15 December 1999, the operative part of which reads as follows:

"*The General Assembly*,

"...

"1. *Decides* to convene the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in June/July 2001;

"2. *Also decides* that the scope of the Conference shall be the illicit trade in small arms and light weapons in all its aspects;

"3. *Further decides* to establish a preparatory committee open to participation by all States, which will hold no fewer than three sessions, the first session to be held in New York from 28 February to 3 March 2000;

"4. *Decides* that the specialized agencies, other relevant intergovernmental organizations and relevant entities, having received a standing invitation to participate as observers in the sessions and in the work of the General Assembly, shall participate, as observers, in the Preparatory Committee, and requests the Committee to take a decision on the modalities of attendance of non-governmental organizations at its sessions;

"5. *Requests* the Preparatory Committee to decide, at its first session, on the date and venue of the Conference in 2001 as well as on the dates and venue of its subsequent sessions;

"6. *Stresses* the need to ensure the widest possible and effective participation in the Conference in 2001;

"7. *Requests* the Preparatory Committee to make recommendations to the Conference on all relevant matters, including the objective, a draft agenda, draft rules of procedure and draft final documents, which will include a programme of action, and to decide on background documents to be made available in advance;

"8. Invites all Member States, in particular those that have not yet done so, in response to the note verbale of the Secretary-General dated 20 January 1999, to communicate to the Secretary-General their views on the agenda and other relevant questions relating to the Conference;

"9. *Requests* the Secretary-General to transmit the replies of Member States relevant to paragraph 8 above to the Preparatory Committee and to render to the Preparatory Committee and the Conference all necessary assistance, including the provision of essential background information, relevant documents and summary records;

"10. *Endorses* the report of the Secretary-General on small arms prepared with the assistance of the Group of Governmental Experts on Small Arms pursuant to General Assembly resolution 52/38 J [A/54/258], bearing in mind the views of Member States on the report;

"11. *Calls upon* all Member States to implement the relevant recommendations contained in section IV of that report to the extent possible and where necessary in cooperation with appropriate international and regional organizations and/or through international and regional cooperation;

"12. *Requests* the Secretary-General to seek the views of Member States on the report as well as on the implementation of the relevant recommendations contained therein;

"13. *Also requests* the Secretary-General to implement the relevant recommendations

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contained in section IV of the report within available financial resources and with any other assistance provided by States in a position to do so and in cooperation with appropriate international and regional organizations where necessary;

"14. *Further requests* the Secretary-General, in order to assist in preventing the illicit trafficking in and illicit circulation of small arms and light weapons:

(a) To carry out a study, within available financial resources and with any other assistance provided by Member States in a position to do so, and with the assistance of governmental experts appointed by him, on the basis of equitable geographical representation, while seeking the views of Member States, on the feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, which will cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions;

(b) To submit the study as one of the background documents for the Conference to be held in 2001;

"15. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled 'Small arms'".

2. By its decision 55/415, entitled "Small arms", adopted on 20 November 2000, the General Assembly decided to convene the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in New York, from 9 to 20 July 2001. It also decided to convene the third session of the Preparatory Committee for the Conference in New York, from 19 to 30 March 2001.

3. Representatives of the following States participated in the second session of the Preparatory Committee: Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Eritrea, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Holy See, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Malaysia, Mali, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Nauru, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia and Zambia.

4. The following specialized agencies, intergovernmental organizations and relevant entities participated as observers in the second session of the Preparatory Committee: European Commission, Permanent Observer Mission of the International Organization of la Francophonie, Permanent Observer Mission of the Organization of African Unity, International Committee of the Red Cross, United Nations Children's Fund, United Nations Development Programme, World Health Organization and World Bank.

## II. Organization of the work of the Preparatory Committee

5. Pursuant to the decision adopted at its first session (see A/CONF.192/PC.9, para. 16), the Preparatory Committee held its second session at United Nations Headquarters from 8 January to 19 January 2001.

6. During its second session, the Committee held a total of 17 plenary meetings.

7. At its 11th meeting, on 8 January 2001, the Committee was informed that the Group of African States had endorsed the candidacy of Mr. Jean Du

Preez of South Africa for the position of vice-chairman.

8. The Committee was also informed that, following the resignations of Mr. Filipe de Macedo Soares of Brazil and Mr. Juan Miguel Miranda of Peru from their positions as vice-chairmen, the Group of Latin American and Caribbean States had respectively endorsed Ms. AnaMaria Sampaio Fernandes of Brazil and Mr. Raul Salazar-Cosio of Peru to replace them.

9. The Committee was also informed that, following the resignations of Mr. Pierre Charasse of France, Mr. Mario Duarte of Portugal and Mr. Mark Gaillard of Canada from their positions as vice-chairmen, the Group of Western European and Other States had respectively endorsed Ms. Marie-France André of Belgium, Mr. Henrik Salander of Sweden and Mr. Robert McDougall of Canada, to replace them.

10. At the same meeting, the Committee elected the following officers:

*Vice-Chairpersons*:

| | |
|---|---|
| Ms. Marie-France André | Belgium |
| Mr. Jean Du Preez | South Africa |
| Mr. Robert McDougall | Canada |
| Mr. Henrik Salander | Sweden |
| Mr. Raul Salazar-Cosio | Peru |
| Ms. AnaMaria Sampaio Fernandes | Brazil |

11. At the same meeting, the Committee decided that the Secretary of the Preparatory Committee would assist the Chair in preparing the report and would present it to the Committee.

12. Ms. Agnès Marcaillou, Senior Political Affairs Officer, Department for Disarmament Affairs, served as Secretary of the Preparatory Committee.

13. Also at its 11th meeting, the Committee considered the timetable submitted by the Chair for the week of 8 to 12 January 2001, as contained in Informal Paper No. 1 of 8 January 2001, and decided to devote the first week of its work to general statements followed by a sequential consideration, in plenary meetings, of the Chairman's working paper entitled "Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects" (A/CONF.192/PC/L.4).

14. At its 19th meeting, on 15 January, the Committee considered the timetable submitted by the Chairman for the week of 15 to 19 January 2001, as contained in Informal Paper No. 2 of 15 January 2001, and adopted it as amended (Informal Paper No. 2/Rev.1 of 16 January).

15. At its 21st meeting, on 16 January, the Chairman informed the Preparatory Committee that the Secretary-General of the United Nations had designated Mr. Joao Honwana, Chief, Conventional Arms Branch, Department for Disarmament Affairs, as Secretary-General of the Conference, and Mr. Mohammad Sattar, Senior Political Affairs Officer, Department of General Assembly Affairs and Conference Services, as Deputy Secretary-General of the Conference.

16. At its 20th meeting, on 15 January, the Preparatory Committee decided to hold an informal meeting on 18 January to hear the views of non-governmental organizations. It was agreed that the decision of the Preparatory Committee had been taken without prejudice to its consideration of the draft decision on "modalities of attendance of non-governmental organizations at the sessions of the Preparatory Committee". It was also agreed that this decision would not constitute any precedent for the future.

17. On 18 January, the Committee held an informal meeting during which the representatives of the following non-governmental organizations presented their views: Institute for Securities Studies, British American Security Information Council, Fund for Peace, Viva Rio, Amnesty International, International Physicians for the Prevention of Nuclear War, Physicians for Social Responsibility, Safer-Net, Saferworld, National Rifle Association, Groupe de Recherche et d'Information sur la Paix et la Sécurité, International Alert, Centre for Democratic Empowerment, Oxfam, Institute of Education for Sustainable Development, Security Research and Information Centre, Small Arms Survey, Human Rights Watch, National Center for Economic and Security Alternatives, World Council for Religion and Peace, Public Affairs Committee, European Institute for Risk, Security, and Communication Management (EURISC Foundation), Quaker United Nations Office, Pax Christi International, Fellowship for Reconciliation, Maryknoll Office for Global Concerns, International Action Network on Small Arms, Eminent Persons Group.

'8. The Preparatory Committee had before it the following reports of the Secretary-General:

(a) Report of the Secretary-General entitled "Small arms" (A/55/189 and Add.1, 28 July 2000);

(b) Report of the Secretary-General entitled "Assistance to States for curbing the illicit traffic in small arms and collecting them" (A/55/216, 2 August 2000);

(c) Report of the Secretary-General entitled "Illicit traffic in small arms" (A/55/323 and Add.1, 25 August 2000).

19. A number of delegations circulated the following documents:

(a) Letter dated 8 December 2000 from the Chairman of the Latin American and Caribbean Regional Preparatory Meeting addressed to the Chairman of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, transmitting the Brasilia Declaration (A/CONF.192/PC/19);

(b) Letter dated 22 December 2000 from the Permanent Representative of Austria to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting a letter from the Minister for Foreign Affairs of Austria, in her capacity as Chairperson-in-Office of the Organization for Security and Cooperation in Europe, addressed to the Secretary-General of the United Nations (A/CONF.192/PC/20);

(c) Note verbale dated 14 December 2000 from the Permanent Mission of France to the United Nations to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting the text of the European Union plan of action aspects (A/CONF.192/PC/21);

(d) Working paper submitted by the Permanent Mission of Japan outlining its basic position on the Action Plan for the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/PC/22);

(e) Letter dated 8 January 2001 from the Permanent Representatives of Mali and Togo to the United Nations addressed to the Chairman of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, transmitting the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons (A/CONF.192/PC/23);

(f) Letter dated 9 January 2001 from the Chairman of the Pacific Island Forum countries in New York for January 2001 addressed to. Jayantha Dhanapala, Under-Secretary-General for Disarmament Affairs, transmitting a paper entitled "Small arms and light weapons: the interests and involvement of Pacific Island Forum countries" (A/CONF.192/PC/24);

(g) Working paper by Switzerland and France on establishing a tracing mechanism to prevent and reduce excessive and destabilizing accumulation and transfer of small arms and light weapons (A/CONF.192/PC/25);

(h) Letter dated 10 January 2001 from the Permanent Representative of South Africa to the United Nations in his capacity as Chairman of the Coordination Bureau of the Movement of Non-Aligned Countries addressed to the Chairman of the Preparatory Committee for the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/PC/26);

(i) Working paper submitted by Japan on the working paper submitted by the Chairman of the Preparatory Committee (A/CONF.192/PC/27);

(j) Proposal submitted by Japan on the political declaration of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/PC/29).

20. The Preparatory Committee had before it the following documents for its consideration:

(a) Working paper by the Chairman of the Preparatory Committee: Draft provisional agenda (A/CONF.192/PC/L.2);

(b) Working paper by the Chairman of the Preparatory Committee: Draft provisional agenda of the Conference (A/CONF.192/PC/L.2 Rev.1);

(c) Working paper by the Chairman of the Preparatory Committee: Draft Objective of the Conference (A/CONF.192/PC/L.3);

(d) Working paper by the Chairman of the Preparatory Committee: Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in

Small Arms and Light Weapons in All Its Aspects (A/CONF.192/PC/L.4);

(e) Working paper by the Chairman of the Preparatory Committee: Draft provisional rules of procedure (A/CONF.192/PC/L.5);

(f) Draft report of the Preparatory Committee (A/CONF.192/PC/L.6);

(g) Draft decision on the modalities of attendance of non-governmental organizations at the sessions of the Preparatory Committee as well as at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/PC/L.7);

(h) Draft rule 33 of the draft rules of procedure of the Conference (A/CONF.192/PC/L.8).

21. A number of relevant United Nations documents were made available at the second session of the Preparatory Committee. A list of the documents that were before the Preparatory Committee is contained in Information Paper No. 1/Rev.1 of 17 January 2001.

22. A list of delegations participating in the second session of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects is contained in document A/CONF.192/PC/28.

23. Pursuant to the decision of the General Assembly of 15 December 1999 that summary records be provided for only those meetings at which decisions would be taken, summary records were provided for five meetings, respectively the 11th, 19th, 20th, 25th and 26th meetings.

## III. Decisions of the Preparatory Committee

24. At its 20th meeting, on 15 January 2001, the Preparatory Committee decided to recommend that draft rule of procedure 33 of the draft rules of procedure, on "decision-making" (A/CONF.192/PC/L.8), should be included in the draft rules of procedure of the Conference (A/CONF.192/PC/L.5).

25. At its 26th meeting, the Committee decided to recommend to the Conference the draft agenda of the Conference (A/CONF. 192/PC/L.2 Rev.1).

26. At its 28th meeting, the Committee decided to continue its consideration of the draft rules of procedure of the Conference (A/CONF.192/PC/L.5), at its third session.

27. At the same meeting, the Committee decided to continue its consideration of the modalities of attendance of non-governmental organizations at the sessions of the Preparatory Committee at its third session.

28. At the same meeting, the Committee also decided to continue its consideration of the draft objective of the Conference at its third session.

29. At the same meeting, the Committee also decided to continue its consideration of the decision on background documents to be made available in advance.

30. At the same meeting, the Committee also decided to continue its consideration of the draft final documents, including a Programme of Action, at its third session.

31. The Preparatory Committee concluded its second session on 19 January 2001.

# Part three
# Report of the third session of the Preparatory Committee*

## 19-30 March 2001

## I. Introduction

1. At its fifty-fourth session, the General Assembly adopted resolution 54/54 V of 15 December 1999, the operative part of which reads as follows:

"*The General Assembly*,

"...

"1. *Decides* to convene the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in June/July 2001;

"2. *Also decides* that the scope of the Conference shall be the illicit trade in small arms and light weapons in all its aspects;

"3. *Further decides* to establish a preparatory committee open to participation by all States, which will hold no fewer than three sessions, the first session to be held in New York from 28 February to 3 March 2000;

"4. *Decides* that the specialized agencies, other relevant intergovernmental organizations and relevant entities, having received a standing invitation to participate as observers in the sessions and in the work of the General Assembly, shall participate, as observers, in the Preparatory Committee, and requests the Committee to take a decision on the modalities of attendance of non-governmental organizations at its sessions;

"5. *Requests* the Preparatory Committee to decide, at its first session, on the date and venue of the Conference in 2001 as well as on the dates and venue of its subsequent sessions;

"6. *Stresses* the need to ensure the widest possible and effective participation in the Conference in 2001;

"7. *Requests* the Preparatory Committee to make recommendations to the Conference on all relevant matters, including the objective, a draft agenda, draft rules of procedure and draft final documents, which will include a programme of action, and to decide on background documents to be made available in advance;

"8. *Invites* all Member States, in particular those that have not yet done so, in response to the note verbale of the Secretary-General of 20 January 1999, to communicate to the Secretary-General their views on the agenda and other relevant questions relating to the Conference;

"9. *Requests* the Secretary-General to transmit the replies of Member States relevant to paragraph 8 above to the Preparatory Committee and to render to the Preparatory Committee and the Conference all necessary assistance, including the provision of essential background information, relevant documents and summary records;

"10. *Endorses* the report of the Secretary-General on small arms, prepared with the assistance of the Group of Governmental Experts on Small Arms pursuant to General Assembly resolution 52/38 J [A/54/258], bearing in mind the views of Member States on the report;

"11. *Calls upon* all Member States to implement the relevant recommendations contained in section IV of that report to the extent possible and where necessary in cooperation with appropriate international and regional organizations and/or through international and regional cooperation;

"12. *Requests* the Secretary-General to seek the views of Member States on the report as well as on the implementation of the relevant recommendations contained therein;

"13. *Also requests* the Secretary-General to implement the relevant recommendations contained in section IV of the report within

* Originally issued under the symbol A/CONF.192/PC/50.

available financial resources and with any other assistance provided by States in a position to do so and in cooperation with appropriate international and regional organizations where necessary;

"14. *Further requests* the Secretary-General, in order to assist in preventing the illicit trafficking in and illicit circulation of small arms and light weapons:

(a) To carry out a study, within available financial resources and with any other assistance provided by Member States in a position to do so, and with the assistance of governmental experts appointed by him, on the basis of equitable geographical representation, while seeking the views of Member States, on the feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, which will cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions;

(b) To submit the study as one of the background documents for the Conference to be held in 2001;

"15. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled 'Small arms'."

2. By its decision 55/415, entitled "Small arms", adopted on 20 November 2000, the General Assembly decided to convene the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in New York, from 9 to 20 July 2001. It also decided to convene the third session of the Preparatory Committee for the Conference in New York, from 19 to 30 March 2001.

3. Representatives of the following States participated in the third session of the Preparatory Committee: Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Holy See, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tonga, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

4. The following intergovernmental organizations and relevant entities participated as observers in the third session of the Preparatory Committee: European Community, Permanent Observer of the International Organization of la Francophonie, Permanent Observer of the Organization of African Unity, International Committee of the Red Cross and World Bank.

## II. Organization of the work of the Preparatory Committee

5. Pursuant to General Assembly decision 55/415 of 20 November 2000, entitled "Small arms", the Preparatory Committee for the Conference held its third session at United Nations Headquarters in New York, from 19 to 30 March 2001.

6. During its third session, the Preparatory Committee held a total of 10 plenary meetings.

7. The following officers served the Preparatory Committee at its third session:

*Chairman*:

Mr. Carlos dos Santos (Mozambique)

*Vice-Chairpersons*:

Mr. Yashar Aliyev (Azerbaijan)
Ms. Marie-France André (Belgium)
Mr. Herbert Calhoun (United States ofAmerica)
Mr. Alioune Diagne (Senegal)
Ms. Dace Dobraja (Latvia)
Mr. Mitsuro Donowaki (Japan)
Ms. Ana Maria Sampaio Fernandes (Brazil)
Mr. Shen Guofang (China)
Mr. Samuel Insanally (Guyana)
Mr. Ismail Khairat (Egypt)
Mr. Valeri P. Kuchynski (Ukraine)
Mr. Bob Jalango (Kenya)
Mr. Leif Arne Ulland (Norway)
Mr. Robert McDougall (Canada)
Mr. Hamid Baeidi Nejab (Iran (Islamic Republic of))
Mr. Richard Pierce (Jamaica)
Mr. Jean Du Preez (South Africa)
Mr. Denis Dangue Rewaka (Gabon)
Mr. Henrik Salander (Sweden)
Mr. Raul Salazar-Cosio (Peru)
Mr. Carlos Sorreta (Philippines)
Mr. Sergey Ling (Belarus)
Ms. Nury Vargas (Costa Rica)
Mr. Makmur Widodo (Indonesia)
Mr. Przemyslaw Wyganowski (Poland)

8. Ms. Agnès Marcaillou, Senior Political Affairs Officer, Department for Disarmament Affairs, served as Secretary of the Preparatory Committee. As in the previous two sessions, the Secretary of the Preparatory Committee acted as Rapporteur.

9. At its 28th meeting, on 19 March 2001, the Committee considered the timetable submitted by the Chair for the week of 19 to 23 March 2001, as contained in Informal Paper No. 1 of 19 March 2001. At its 36th meeting, on 26 March, the Committee considered the timetable submitted by the Chair for the week of 26 to 30 March 2001, as contained in Informal Paper No. 4 of 26 March 2001. The Committee adopted the two working timetables and decided to focus its work on the consideration of the Chairman's working paper entitled "Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects" (A/CONF.192/PC/L.4/Rev.1). During plenary meetings, delegations made general statements and presented proposals on the Chairman's working paper. The Committee considered the working paper paragraph by paragraph in closed meetings. Amendments and additional proposals to the working paper were also considered.

10. The Preparatory Committee also agreed that the Chairman's working paper would be the basis for its substantive consideration of the draft Programme of Action.

11. At the 28th meeting, at the request of the Preparatory Committee, the representatives of the United Nations Centre for International Crime Prevention, Vienna, the Organization for Security and Cooperation in Europe (OSCE) and the Southern African Development Community (SADC) made statements respectively on the recent conclusion of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, the OSCE Document on Small Arms and Light Weapons, and the Southern African Development Community Declaration Concerning Firearms, Ammunition and Other Related Material.

12. At the same meeting, the Chairperson of the Group of Experts established pursuant to General Assembly resolution 54/54 V, Ms. Peggy Mason of Canada, presented the report of the Group (A/CONF.192/PC/33).

13. At its 29th meeting, on 19 March, at the request of the Preparatory Committee, representatives of the following United Nations departments, agencies, programmes and funds made statements: Department for Disarmament Affairs, United Nations Children's Fund (UNICEF), World Health Organization (WHO), United Nations Institute for Disarmament Research (UNIDIR), United Nations Development Programme (UNDP), Office of the United Nations High Commissioner for Human Rights, Office for the Coordination of Humanitarian Affairs and Department of Peacekeeping Operations.

14. At the 34th meeting, on 23 March, the Minister for Foreign Affairs and International Cooperation of Kenya, Mr. Bonaya Adhi Godana, addressed the Committee on behalf of the Initiative of the Great Lakes Region and the Horn of Africa.

15. At the same meeting, the Officer-in-Charge of the Department for Disarmament Affairs, Mr. Evgeniy Gorkovskiy, made a statement on behalf of the United Nations Coordinating Action on Small Arms (CASA) mechanism.

16. Also at the 34th meeting, representatives of the following non-governmental organizations addressed the Committee: International League for Peace and Freedom, Institute for Security Studies, Amnesty International, Saferworld, National Rifle Association, Groupe de Recherche et d'Information sur la Paix et la Sécurité, International Alert, Working Group on Weapons Reduction, Christian Council of Mozambique, Security Research and Information Centre, International Action Network on Small Arms, Eminent Persons Group, Sporting Shooters Association of Australia, Center for International Policy, Africa Peace Forum, Bradford University, Arias Foundation.

17. At the 36th meeting, on 26 March, a representative of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict made a statement.

18. A number of delegations circulated the following documents:

(a) Letter dated 30 January 2001 from the Permanent Representative of South Africa to the United Nations addressed to the Under-Secretary-General for Disarmament Affairs (A/CONF.192/PC/31);

(b) Note verbale dated 2 March 2001 from the Permanent Mission of Sweden to the United Nations transmitting, on behalf of the European Union, EU comments on the Chairman's revised draft Programme of Action (L.4/Rev.1) (A/CONF.192/PC/32);

(c) Note verbale dated 15 March 2001 from the Permanent Mission of Japan to the United Nations addressed to the Secretariat of the United Nations, transmitting the general comments of Japan on the revised draft Programme of Action (A/CONF.192/PC/34);

(d) Letter dated 16 March 2001 from the Permanent Representative of Namibia to the United Nations addressed to the Under-Secretary-General for Disarmament Affairs, transmitting the text of the Declaration concerning Firearms, Ammunition and Other Related Materials in the Southern African Development Community (A/CONF.192/PC/35);

(e) Note verbale dated 19 March 2001 from the Permanent Mission of Bulgaria to the United Nations addressed to the Chairman of the Preparatory Committee, transmitting working views and suggestions of the Bulgarian delegation on regional and subregional activities (A/CONF.192/PC/37);

(f) Note verbale dated 21 March 2001 from the Permanent Mission of France and the Permanent Observer Mission of Switzerland to the United Nations addressed to the Chairman of the Preparatory Committee, transmitting a summary of the Franco-Swiss Seminar on the Traceability of Small Arms and Light Weapons, held in Geneva on 12 and 13 March 2001 (A/CONF.192/PC/38);

(g) Note verbale dated 28 March 2001 from the Permanent Mission of Sweden to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting, on behalf of the European Union, drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/40);

(h) Letter dated 29 March 2001 from the head of the Canadian delegation to the Preparatory Committee addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/41);

(i) Note verbale dated 30 March 2001 from the Permanent Observer Mission of Switzerland to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting working papers on the revised draft Programme of Action (A/CONF.192/PC/42);

(j) Note verbale dated 30 March 2001 from the Permanent Observer Mission of Switzerland to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting, on behalf of Mexico, Switzerland and the United States of America, a working paper on the revised draft Programme of Action (A/CONF.192/PC/43);

(k) Note verbale dated 30 March 2001 from the Permanent Mission of Jordan to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting, on behalf of the League of Arab States, drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/44);

(l) Note verbale dated 30 March 2001 from the Permanent Mission of Argentina to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/45);

(m) Note verbale dated 30 March 2001 from the Permanent Mission of Brazil to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/46);

(n) Note verbale dated 3 April 2001 from the Permanent Mission of Cuba to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/47);

(o) Note verbale dated 30 March 2001 from the Permanent Mission of Algeria to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/48);

(p) Note verbale dated 2 April 2001 from the Permanent Mission of China to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/49);

(q) Note verbale dated 30 March 2001 from the Permanent Mission of Iraq to the United Nations addressed to the Department for Disarmament Affairs of the United Nations Secretariat, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/51);

(r) Note verbale dated 3 April 2001 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/52);

(s) Note verbale dated 26 March 2001 from the Permanent Mission of Qatar to the United Nations addressed to the Chairman of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/53);

(t) Note verbale dated 2 April 2001 from the Permanent Observer Mission of the Holy See to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/54);

(u) Note verbale dated 2 April 2001 from the United States Mission to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/55);

(v) Note verbale dated 3 April 2001 from the Permanent Mission of Nepal to the United Nations addressed to the secretariat of the Preparatory Committee, transmitting drafting proposals on the revised draft Programme of Action (A/CONF.192/PC/56);

(w) Recommendation proposed by Brazil, Mali the Netherlands and the United Kingdom of Great Britain and Northern Ireland (A/CONF.192/PC/57).

19. The Preparatory Committee had before it the following documents for its consideration:

(a) Draft provisional agenda of the Conference (A/CONF.192/PC/L.2/Rev.2);

(b) Draft decision on the modalities of attendance of non-governmental organizations at the sessions of the Preparatory Committee as well as the Conference (A/CONF.192/PC/L.7/Rev.2);

(c) Draft rule 33 of the rules of procedure of the Conference (A/CONF.192/PC/L.8);

(d) Draft decision (A/CONF.192/PC/L.9);

(e) Draft rule 64 of the draft rules of procedure of the Conference (A/CONF.192/PC/L.10);

(f) Draft report of the Preparatory Committee (A/CONF.192/PC/L.12);

(g) Draft decision proposed by the Netherlands (on behalf of Brazil, Mali, the Netherlands and the United Kingdom of Great Britain and Northern Ireland) (A/CONF.192/PC/L.13).

20. A number of documents were made available at the third session of the Preparatory Committee. The list

of documents is contained in Information Paper No. 1 of 28 March 2001.

21. The list of delegations participating in the third session of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects is contained in document A/CONF.192/PC/36.

22. Pursuant to the decision of the General Assembly of 15 December 1999 that summary records be provided for only those meetings at which decisions would be taken, summary records were provided for three meetings, respectively the 33rd, 37th and 38th meetings.

# III. Decisions and recommendations of the Preparatory Committee

## A. Decisions

23. At the 33rd meeting, on 21 March 2001, in accordance with paragraph 4 of General Assembly resolution 54/54 V, the Preparatory Committee adopted a decision on modalities of attendance of non-governmental organizations at its session and at the Conference (A/CONF.192/PC/L.7/Rev.2). Before the adoption of the decision, the Chairman stated, for the record, that it was the Committee's understanding that, once non-governmental organizations enjoying consultative status with the Economic and Social Council in accordance with the provisions of Council resolution 1996/31 of 25 July 1996 had informed the Chairman of the Preparatory Committee of their interest in participating in the Committee, they would have a right to participate in its session without being subjected to a second screening. In addition, the Chairman also stated that it was the Committee's understanding that the language contained in the decision would apply mutatis mutandis to the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and that the language would be reflected in draft rule 64 of the draft rules of procedure of the Conference.

24. In accordance with paragraph 7 of the same resolution, the Preparatory Committee also decided that the Secretary-General's study carried out with the assistance of a group of governmental experts established pursuant to paragraph 14 of resolution 54/54 V (A/CONF.192/PC/33) should be made available in advance. The Committee furthermore decided that those documents and papers made available to it, throughout the preparatory process, including the reports of its first, second and third sessions (A/CONF.192/PC/9, A/CONF.192/PC/30 and A/CONF.192/PC/50), would constitute background documents for the Conference.

## B. Recommendations

25. At its 38th meeting, on 30 March 2001, the Preparatory Committee adopted the following recommendation, proposed by Brazil, Mali, the Netherlands and the United Kingdom (A/CONF.192/PC/57). The recommendation read as follows:

> "The Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, which will be held at United Nations Headquarters from 9 to 20 July 2001,
>
> "1. *Recommends* that the first day of the Conference be proclaimed 'Small Arms Destruction Day';
>
> "2. *Calls upon* all States to organize, on a voluntary basis and, where possible, together with non-governmental organizations and civil society, public events of destruction of small arms and light weapons on 'Small Arms Destruction Day', and to ensure the widest possible dissemination of information about the events, including through national and international media;
>
> "3. *Requests* the Secretary-General of the United Nations to communicate this recommendation to all States and other participants in the meetings of the Preparatory Committee, including non-governmental organizations."

26. In accordance with paragraph 7 of General Assembly resolution 54/54 V, at its 38th meeting, on 30 March, the Preparatory Committee recommended to the Conference the objective of the Conference (A/CONF.192/PC/L.3), for further consideration.

27. In accordance with the same paragraph, the Preparatory Committee recommended to the Conference the draft agenda of the Conference, as

adopted by the Committee at its second session (A/CONF.192/PC/L.2/Rev.2).

28. Also at the 38th meeting, the Preparatory Committee recommended to the Conference that draft rule 64 on the modalities of attendance of non-governmental organizations at the Conference should be incorporated in the draft rules of procedure for the Conference (A/CONF.192/PC/L.5).

29. In accordance with the same paragraph, also at its 38th meeting, the Preparatory Committee recommended to the Conference the draft rules of procedure of the Conference (A/CONF.192/PC/L.5), amended by the insertion of draft rule 33 on decision-making, adopted by the Committee at its second session (A/CONF.192/PC/L.8), and of draft rule 64 (A/CONF.192/PC/L.10).

30. Moreover, at its 38th meeting, the Preparatory Committee recommended that the Chairman's working paper entitled "Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects" (A/CONF.192/PC/L.4/Rev.1) should be forwarded for further consideration at the Conference. The Committee also welcomed the intention of the Chairman to produce, under his own authority, an informal information sheet on the status of the discussions at the end of the third session of the Preparatory Committee.

31. At the same meeting, the Preparatory Committee also recommended that the Conference should be held at the ministerial level (A/CONF.192/PC/L.9).

32. At the same meeting, the Preparatory Committee also recommended that the duration of each statement made during the general debate of the Conference should be limited to seven minutes.

33. The Preparatory Committee concluded its third session on 30 March 2001.

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**United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects**
9-20 July 2001

## Note by the Secretary-General

By its resolution 54/54 V of 15 December 1999, the General Assembly requested the Secretary-General, in order to assist in preventing the illicit trafficking in and illicit circulation of small arms and light weapons: (a) to carry out a study, within available financial resources and with any other assistance provided by Member States in a position to do so, and with the assistance of governmental experts appointed by him, on the basis of equitable geographical representation, while seeking the views of Member States, on the feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, which will cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions; and (b) to submit the study as one of the background documents for the Conference to be held in 2001.

Pursuant to that resolution, the Secretary-General has the honour to submit to the Conference the above-mentioned report, prepared with the assistance of a Group of Governmental Experts.

01-36874 (E) 230501

# Letter of transmittal dated 9 February 2001 from the Chairperson of the Group of Governmental Experts established pursuant to General Assembly resolution 54/54 V of 15 December 1999, entitled "Small arms", addressed to the Secretary-General

I have the honour to submit herewith the report of the Group of Governmental Experts established pursuant to General Assembly resolution 54/54 V of 15 December 1999, entitled "Small arms". The Group was appointed by you in accordance with paragraph 14 of resolution 54/54 V.

In March 2000, you appointed, on the basis of equitable geographical representation, the following governmental experts:

Mr. Egberto José de Azevedo (second session)
Expert, Federal Police
Ministry of Justice
Brasilia

Ms. Geraldine Baker
Senior Special Agent
United States Department of State
Bureau of International Narcotics Affairs
Washington, D.C.

Mr. Jostein Bernhardsen
Deputy Director General
Ministry of Foreign Affairs of Norway
Oslo

Mr. Valdinho Jacinto Caetano (third session)
Ministry of Justice
Brasilia

Mr. Spencer Chilvers (second and third sessions)
Deputy Head of the Policy Unit
Department of Trade and Industry
Export Control Organisation
London

Ms. Michel Coninsx (second and third sessions)
Magistrat National
Office des magistrats nationaux
Brussels

Mr. Amandeep Singh Gill
First Secretary
Embassy of India
Tehran

Colonel Miguel Angel Lizarraga Granados
Industrial Engineer
Office of Manufacturers of the Secretary of National Defence
Dirección de Fábricas de la Defensa Nacional
Mexico City

Brigadier Dr. Ali Salem Ibrahim
Police Academy
Cairo

Mr. Tariq Javed
Section Officer (Disarmament)
Disarmament Cell
Ministry of Foreign Affairs
Islamabad

Contrôleur général des Armées Etienne Bosquillon de Jenlis
Chargé de la coordination de la réglementation et du contrôle
des matériels de guerre et des biens sensibles
Contrôle général des Armées, Ministère de la défense
Paris

Mr. Pyotr G. Litavrin (second and third sessions)
Head of the Division of the Department for Security and
Disarmament Affairs
Moscow

Ambassador Margaret (Peggy) Mason (Chairperson of the Group)
Adviser on Small Arms and Light Weapons
Non-Proliferation, Arms Control and Disarmament Division
International Security Bureau
Department of Foreign Affairs and International Trade
Ottawa

Mr. J. B. Miyumo
Senior Deputy Commissioner
Head, Tax Programmes
Kenya Revenue Authority
Customs and Excise Department
Nairobi

Mr. Manoel Gomes Pereira (first session)
International Adviser
Ministry of Justice
Brasilia

Colonel Marc Pirlot (first session)
Ecole Royale Militaire
Brussels

Navy Captain (Ret.) Aharon Shahar
Senior Coordinator
Arms Control and Regional Security
Arms Control Division
Ministry of Defence
Tel Aviv, Israel

Mr. Shamim Shaikh
Chief of Acquisition
Department of Defence
Pretoria

Mr. Anastasio Siderakis
In Charge of the Technical Division of the
Inspection and Verification Department of the
National Register of Arms (RENAR)
Buenos Aires

Mr. Yuri Sterk
Director General for International Security
Ministry of Foreign Affairs
Sofia

Mr. Errol Strong
Chief Security Attaché
Embassy of Jamaica
Washington, D.C.

Mr. Geoffrey Trett (first session)
Senior Research Officer
Ministry of Defence
London

Mr. Wu Haitao
First Secretary
Permanent Mission of the People's
Republic of China to the United Nations
New York

Mr. Przemyslaw Wyganowski
Chief of the Conventional Arms Unit
Export Policy Department
Ministry of Foreign Affairs
Warsaw

The report was prepared between 15 May 2000 and 9 February 2001. During that period, the Group held three sessions in New York: the first from 15 to 19 May 2000, the second from 10 to 14 July 2000 and the third from 5 to 9 February 2001. The Group also met in Sofia from 17 to 19 October 2000, at the invitation of the Government of Bulgaria, and in Ottawa, from 29 January to 2 February 2001, at the invitation of the Government of Canada.

The Group wishes to express its appreciation for the excellent support that it received from members of the Secretariat. It expresses its thanks to the Under-Secretary-General for Disarmament Affairs, Mr. Jayantha Dhanapala. Its special

appreciation goes to Ms. Agnès Marcaillou, Senior Political Affairs Officer, Department for Disarmament Affairs, who served as the Secretary of the Group; Mr. Xiaoyu Wang, Political Affairs Officer, Department for Disarmament Affairs; and to the consultant, Dr. Herbert Wulf, Director of the Bonn International Center for Conversion (BICC).

I have been requested by the Group of Governmental Experts, as its Chairperson, to submit to you, on its behalf, the present study.

(*Signed*) Margaret (Peggy) **Mason**
Chairperson of the Group of Governmental Experts
established pursuant to General Assembly resolution 54/54 V

# Report of the Group of Governmental Experts established pursuant to General Assembly resolution 54/54 V of 15 December 1999, entitled "Small arms"

## I. Introduction

### A. The mandate

1. In paragraph 14 of its resolution 54/54 V of 15 December 1999, entitled "Small arms", the General Assembly requested the Secretary-General, in order to assist in preventing illicit trafficking in and illicit circulation of small arms and light weapons: (a) to carry out a study, within available financial resources and with any other assistance provided by Member States in a position to do so, and with the assistance of governmental experts appointed by him, on the basis of equitable geographical representation, while seeking the views of Member States, on the feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, which would cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions; and (b) to submit the study as one of the background documents for the Conference to be held in 2001.

2. In May 2000, the Secretary-General appointed a panel of governmental experts from the following 20 countries: Argentina, Belgium, Brazil, Bulgaria, Canada, China, Egypt, France, India, Israel, Jamaica, Kenya, Mexico, Norway, Pakistan, Poland, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland and United States of America.

3. The Group of Experts held three sessions in New York, from 14 to 19 May and 10 to 14 July 2000, and from 5 to 9 February 2001. The Group also met in Sofia from 17 to 19 October 2000 for an informal workshop and in Ottawa from 29 January to 2 February 2001 for informal consultations at the invitation of the respective Governments.

4. At its first session, the Group decided to receive additional contributions from experts on relevant areas. Presentations were made at the second session by experts on the status of the negotiation of a draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition in Vienna under the aegis of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, and from civil society, including representatives of manufacturers and other NGOs.

### B. Approach and working methodology of the Group

5. The Group of Experts considered for its work a number of United Nations documents prepared at the request of the General Assembly and the Economic and Social Council and transmitted to them for their consideration of the issue of illicit trade in small arms and light weapons in all its aspects. These consisted mainly of United Nations documents relating to the issue of small arms and light weapons (in particular, General Assembly resolution 54/54 V, the report of the Panel of Governmental Experts on Small Arms (A/52/298) of 1997, the report of the Group of Governmental Experts on Small Arms (A/54/258) of 1999, the report of the Group of Experts on the problem of ammunition and explosives (A/54/155) of 1999 and the note by the Secretary-General (A/54/160) of 1999). The Group took into account the replies received from Governments at the request of the General Assembly. It also took account of national legislation and other documents submitted by Member States and documentation of regional organizations and arrangements such as ECOWAS, the European Union, OAS, OSCE, NATO/EAPC as well as ad hoc regional groupings.

6. Relevant initiatives have been taken in recent years within the United Nations system to address different aspects of the problem of small arms and light weapons. At the global level two important processes are under way. First, the United Nations General Assembly process, supported by expert studies, has reached the stage of preparing for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, scheduled to be held in New York from 9 to 20 July 2001. In Vienna, under the aegis of the Commission on Crime Prevention and Criminal Justice, the Ad Hoc Committee on the Elaboration of a Convention against Transnational

Organized Crime is working on a draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

7. At the regional and subregional level the Organization of American States in 1997 concluded the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, which sets basic standards for the control of the import, export and transit of arms, and also adopted model regulations for the control of the international movement of firearms. One important feature of the Inter-American Convention is the promotion of further cooperation among States, including between law enforcement agencies. Regional initiatives in Africa have focused on the collection and destruction of arms, moratoria on transfers and production, and cooperation between judicial and enforcement agencies. The European Union has focused on transparency and voluntary restraint in transfers. The Stability Pact for South-Eastern Europe is focusing on the coordination of common approaches by participating States to the form and content of end-use/end-user documentation and the collection and destruction of small arms and light weapons. OSCE is focused, inter alia, on combating the illicit trafficking of small arms and light weapons through political agreement on minimum standards regulating the manufacturing, marking, export criteria and export controls, management of stockpiles and their safe disposal as well as transparency and exchange of information. EAPC expanded its focus to cover small arms and light weapons issues from the standpoint of law enforcement and export controls improvement as well as development of stockpile management and tracing. (See annex II for a list of documents representing previous work undertaken within the United Nations system, in other international forums and regional forums and at the national level.)

8. Since the Ninth United Nations Conference on the Prevention of Crime and the Treatment of Offenders (Cairo, 1995), and coinciding with the adoption of resolution 50/70 B on 15 December 1995 by the United Nations in New York, the Vienna-based process has been exploring cooperative avenues for firearms regulation. As a part of this process, an international study on firearm regulation[1] was also released as an ongoing survey; 53 Governments provided data for the study, which is the first comparative study of the levels of firearm-related harm, and the national and international efforts being made to regulate firearms and to reduce this harm around the world. The draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition is an integral part of the United Nations Convention against Transnational Organized Crime; it builds on the 1997 OAS Inter-American Convention and contains useful elements in particular on licensing authorization of movements, marking and tracing of firearms as well as definitions.

9. While the Expert Group was preparing the feasibility study, several States were actively considering new legislation relating to the regulation of manufacturing and more effective regulation of trade. At the same time several reports on United Nations Security Council arms embargoes underlined the need for strengthening their effectiveness, particularly in the light of the demonstrated ability of certain dealers, arms brokers and transportation agents to operate in contravention of Security Council arms embargoes.

10. In furtherance of its mandate, the Expert Group has considered practical approaches in relation to the more effective regulation of State and private manufacture and trade. The purpose of the present study is to assist in preventing the illicit trafficking in and the illicit circulation of small arms and light weapons. In this regard, the Group also saw its work as contributing to the broader international effort to address excessive and destabilizing accumulations and transfers of small arms and light weapons.[2] To the extent that the mandate of the Group necessitated consideration of the broader aspects concerning stockpiles and surpluses of small arms and light weapons, the Group considered those issues.

11. The Expert Group built on the foundation of principles and recommendations contained in the work of the United Nations Panel of Governmental Experts on Small Arms (A/52/298) and the work of the United Nations Group of Governmental Experts on Small Arms (A/54/258). The Group sought to avoid unnecessary duplication and overlap with the work of other United Nations bodies and noted that the mandates of those bodies and that of the Group were both complementary and mutually reinforcing.

12. In order to be as comprehensive as possible in terms of options that States might wish to consider, the Expert Group has sought to identify and evaluate a range of existing laws, regulations, administrative procedures and related approaches at the national and international levels as well as possible new approaches in the light of ongoing developments. In its evaluation of these options, the Group has considered such issues as:

- The aim and scope of the particular measure;
- Whether the measure is to be implemented on a national, regional or global basis;
- Whether the measure is in the form of a treaty, a law, a regulation, a political commitment or a voluntary measure;
- The degree of practical difficulty in implementing the measure;
- The benefits of considering several measures in combination;
- The benefits and limitations of pursuing particular measures or approaches at the national or international level;
- The prospects for bilateral, regional and international cooperation in relation to specific measures or approaches;
- The role that technical cooperation and assistance might play in addressing issues of State capacity to implement effective approaches.

In this manner, the Group has sought to demonstrate the degree of feasibility of various approaches as a solid basis for their further consideration by Member States participating in the 2001 United Nations Conference.

# II. Nature and scope of the problem

## A. General problems

13. Many United Nations resolutions, decisions, statements and reports have noted that excessive and destabilizing accumulations and transfers of small arms and light weapons are closely related to the increased incidence and intensity of conflicts and high levels of crime and violence. It is therefore a legitimate and urgent concern for the international community to take measures to prevent and reduce illicit trafficking and excessive and destabilizing accumulations and transfers. The Expert Group endorsed the understanding of the nature and scope of the problem detailed in the 1997 and 1999 reports of the United Nations groups of governmental experts on small arms.

14. Thus, the manufacture, transfer and stockpiling of small arms and light weapons are required for legal and legitimate purposes. The objective is to prevent and reduce excessive and destabilizing accumulations and transfers and to prevent and combat the illicit manufacture and trafficking in such weapons.

15. A major problem that arose after the end of the cold war was the crumbling of State structures in some regions of the world that helped in the unauthorized access to small arms and light weapons by opposing factions. Therefore, despite the fact that such arms were held by legitimate government authorities and that sufficient legislation might have existed in those States, the breakdown of the State structure and the resulting problem of lack of State authority produced an uncontrolled spread of small arms and light weapons.

16. Illicit brokering activities may include barter deals involving transfers of small arms and light weapons, ammunition and/or explosives, in exchange for other means of payment such as natural resources, drugs, special services, stocks, merchandise, etc. Furthermore, some of these activities are already conducted by the brokers or other participants in the chain of the illicit trade, by using e-commerce channels and networks. This e-commerce is frequently encoded or encrypted, thus placing an extra burden on the law enforcement institutions to detect it.

17. In his report to the Millennium Assembly of the United Nations (A/54/2000), the Secretary-General stated that the task of effective proliferation control in the field of small arms and light weapons is made far harder than it needs to be because of irresponsible behaviour on the part of some States and lack of capacity by others, together with a lack of transparency that is characteristic of much of the arms trade. He concludes that these weapons need to be brought under the control of States, and that States should exercise such control in a responsible manner, including exercising appropriate restraint in relation to accumulations and transfers of small arms and light weapons (ibid., paras. 241 and 245).

## B. Issues of specific concern

18. The issues of particular concern for the present report need to be considered in the context of the nature and scope of the overall problem as outlined above. In this context, the Expert Group noted the need for States to establish, maintain and enforce effective national regulations and controls on the manufacture and transfer of small arms and light weapons.

19. At present, most States regulate the manufacture and transfer of small arms and light weapons through State ownership and/or licensing. The legislative and administrative bases for such regulations vary according to the different traditions and situation of each country. The Expert Group noted, in line with previous United Nations reports, that existing State regulations and controls in some States are evidently inadequate to prevent illicit arms trafficking or excessive and destabilizing accumulations and flows of small arms and light weapons in many countries and regions. Weaknesses in some national laws, regulations, licensing procedures and enforcement mechanisms are exacerbated by lack of capacity, insufficient political will, inconsistent approaches and inadequate coordination and cooperation at the national, bilateral, regional and global levels.

20. There is wide variation in national systems for regulating the manufacture of small arms and light weapons, their parts and components, ammunition and explosives, and associated technologies and services, and in most countries such activities are well regulated. However, in some States, there are problems of insufficient State control, licensing or authorization of the manufacture of such goods, and of the stockpiles of arms kept by manufacturers and dealers. There are gaps in some States' laws. Legal definitions vary, as do systems for regulation and oversight and minimum standards relating to record-keeping and conditions of manufacture. Although there are many examples of good practice, in some cases national regulatory and enforcement systems are inadequate. Similarly, since prescribed standards and techniques for marking weapons during the process of manufacture also vary substantially, in some cases marking and record-keeping systems are inadequate to enable weapons tracing.

21. When they exist, regional efforts, by their very nature, do not address the global nature of the sources of small arms and light weapons and the increasingly transnational networks of brokers, dealers, financiers and transporters. They often do not address government transfers and are more of a mechanism for facilitating regional cooperation of law enforcement agencies. In the latter aspect, moreover, experience of implementation is limited and problems of insufficient State capacity have already become visible. More significantly, given well-known political constraints, some regions have not been able to build regional norms and frameworks for cooperation, and therefore need an international framework to address the problem of small arms and light weapons proliferation.

22. Nearly all States maintain laws, regulations and administrative procedures to control the export, import, transit and retransfer of arms and military goods and technologies. However, in many cases they require strengthening and updating in relation to small arms and light weapons. Many States that rarely participate in other aspects of the conventional arms trade are often suppliers or recipients of used or new small arms and light weapons, and such weapons are relatively vulnerable to diversion to unauthorized uses and illicit trafficking. Furthermore, some States lack the capacity to operate and enforce regulations, due for example to capacity problems in Government or insufficient border controls.

23. Authorized transfers can and have contributed to excessive and destabilizing accumulations of small arms and light weapons. Many weapons in illicit circulation originate from legal trade. In many instances, this was due to lack of awareness of the risks of diversion or of the situation of the recipient or end-user. However, the Expert Group also noted inadequate restraint in some legal transfers of small arms and light weapons, and the need for States to respect the principles and purposes of the Charter of the United Nations, as expressed in the "Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991"[3] and the "Guidelines on conventional arms control/limitation and disarmament, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/45 N".[4]

24. Efforts to prevent and combat illicit trafficking and prevent and reduce excessive and destabilizing accumulations and flows of small arms and light weapons are hampered by inadequate international cooperation and coordination in some areas. For example, illicit arms traffickers have exploited

weaknesses and inconsistencies in relation to States' controls on the manufacture and transfer of small arms and light weapons. There is often inadequate cooperation and information exchange between national institutions responsible for issuing and operating relevant legislation and regulations concerning arms transfers control, licensing bodies, customs authorities, law enforcement agencies and regulators of manufacturers and dealers. Similarly, lack of information about other States' systems of regulation and control, or about patterns of illicit or destabilizing arms flows, hampers preventive or enforcement measures.

25. Many States have not put in place laws, regulations or administrative procedures that regulate arms brokering and related activities. This means that activities that sometimes contribute substantially to illicit trafficking and to excessive and destabilizing accumulations and transfers of small arms and light weapons are not subject to regulation in many countries. Moreover, legal ambiguities in this area help to cloud the distinction between legal and illegal activities and thus undermine effective controls. Several States have recently enacted legislation that specifically regulates arms brokering activities. Some States have arms export control laws that are designed in such a way that they can be used to regulate brokering activities. This approach can also provide some regulation of the activities of other types of agents and dealers involved in arms transfer transactions, including transportation and financial agents. In general, however, the regulation of such activities poses particular challenges.

26. Many States do not have in place laws, regulations or administrative procedures that specifically regulate the licensed manufacture of small arms and light weapons abroad. In general, export control regulations cover at least some aspects of activities under licensed production agreements, for example through their controls on the supply of technology, production equipment and parts. However, there may be significant gaps in these controls.

27. Small arms and light weapons in illicit circulation also contribute to excessive and destabilizing accumulations and flows of arms. Weapons are also lost from insecure official and authorized stocks through the failure to implement established industry practices for inventory control, compounded by theft, corruption and neglect. Surplus arms are sometimes transferred or sold with inadequate restraint or control. The 1997 and 1999 reports included a number of important recommendations aimed at improving arms stockpile management and security and promoting the responsible management and disposal of surplus weapons (A/54/258, recommendations 14-16, paras. 78-81). These issues are relevant to the mandate of the present Expert Group, because of the need to ensure good management and security of arms stocked by manufacturers and dealers, and because many of the arms brokering activities of concern relate to deals involving surplus weapons.

28. There is an increasing body of evidence on breaches of mandatory United Nations arms embargoes, as is illustrated by the recent reports on Angola and Sierra Leone. Issues of concern are the lack of political will of some States to comply with and to enforce the embargoes, a lack of capacity to exercise effective controls and the activities of unscrupulous dealers and transportation agents using circuitous routes and loopholes in regulations to supply small arms and light weapons.

29. The emergence of free ports worldwide poses particular challenges for the international control of arms movements. Port operators are at great pains to offer international shippers and transporters speedy clearance in order to attract trade and sometimes regard trans-shipments of goods as not their prime responsibility to control. Ports with ineffective control run the risk of being targeted by arms brokers and dealers to divert arms shipments from their intended destination. Free ports can provide opportunities for falsification or amendment of end-user certificates and manipulation of bills of lading. Most ships used in illegal arms shipments operate under flags of convenience. Adequate marine laws and regulated and strict supervision in free ports is required to address these problems. In addition to these illegal activities there are the financial transactions associated with the diversion of arms. Often the proceeds from such deals, facilitated by lack of control in free ports, are laundered through accounts in offshore tax havens where controls are equally lax.

30. It is generally known that the availability of small arms and light weapons-related ammunition and explosives in the hands of unauthorized actors enables the use of these weapons. Controlling the illicit flow of ammunition and other explosives would have a great influence on their capabilities, mainly due to the fact

that it is difficult to produce them in the field. One difference in handling ammunition and other explosives, in comparison to small arms and light weapons, lies in the special regulations concerning safety of transportation (by air, sea and land) and its storage (International Civil Aviation and International Maritime Organization regulations). Some difficulties in detecting illicit activities involving explosives may be attributable to the fact that they constitute dual-use material. The production, storage and transfer of military-grade explosives need to be under appropriate government control. Dual-use explosives (for, e.g., mining, building activities) are more difficult to control, and government control may also be complicated by the fact that explosives are difficult to trace. Some types of explosives are easy to produce illegally and find widespread use in conflicts as improvised explosive devices (IEDs).

## III. Identification and evaluation of options/solutions

31. The multifaceted scope and nature of the problem of the illicit trafficking and circulation and excessive and destabilizing accumulations and flows of small arms and light weapons implies that effective international responses must involve a wide range of measures and problem-solving approaches to address each of the factors and problems that need to be addressed. The 1997 and 1999 reports of the United Nations groups of experts included important recommendations for prevention and reduction measures, subsequently endorsed by the General Assembly, addressed to States, the United Nations and other international and regional organizations. For the purpose of the work of the present Expert Group, areas where relevant measures were recommended that relate directly to authorized manufacture and trade include:

- Illicit manufacturing, acquisition, stockpiling and transfer of small arms and light weapons;
- Strengthening of national controls on the legal manufacture, acquisition and transfer of small arms and light weapons, including in relation to law enforcement and preventing diversion to illicit or unauthorized users and purposes;
- Agreed information-exchange mechanisms, including also those between law enforcement agencies in agreed areas.

Areas with recommended complementary activities include:

- Stockpile management and safe storage;
- Collection and disposition of illicit and surplus small arms and light weapons;
- "Prohibition of unrestricted trade and private ownership of small arms and light weapons specifically designed for military purposes, such as automatic guns" (A/54/258, para. 120);
- Effective disarmament, including weapons collection and disposal, demobilization and reintegration programmes in post-conflict situations;
- Transparency and confidence-building in agreed areas;
- Improved international cooperation and coordination of national policies.

32. The 1999 report of the Group of Governmental Experts on Small Arms, endorsed by the General Assembly, included recommendations of direct relevance to the subject of the present study, in particular that "States should ensure that they have in place laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons, in order to prevent unauthorized manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients. Applications for export authorizations should be assessed according to strict national criteria that cover all categories of small arms and light weapons, including surplus or second-hand weapons. Such legislative, regulatory or administrative measures could include the use of authenticated end-user certificates, enhanced legal and enforcement measures, as appropriate, to control arms-brokering activities, requirements to ensure that no retransfer of small arms and light weapons takes place without prior authorization of the original supplier State, and cooperation in the exchange of information on suspect financial activities. States should ensure that they exercise control over all brokering activities performed in their territory or by dealers registered in their territory, including cases in which the arms do not enter their territory" (ibid., para. 113).

33. In line with the above recommendation, and pursuant to its agreed approach and working methodology as detailed in section I.B, the Expert Group set out to identify and evaluate existing and new approaches at the national, regional and global levels.

## A. Manufacturing

### 1. Authorized manufacturing

34. The manufacture of small arms and light weapons serves legitimate and important purposes which are recognized in the Charter of the United Nations, and in most countries is well regulated. States are responsible for ensuring effective control over the manufacture of small arms and light weapons which takes place within their jurisdiction and there is now widespread recognition that this activity should only take place within the framework of effective State regulation and control. Such a system of authorization and oversight enables States to limit diversions into the illicit market and, in conjunction with relevant national policies, will contribute to curbing excessive and destabilizing accumulations and transfers of small arms and light weapons.

35. Effective regulation and control of the production of small arms and light weapons is based on a system of laws, regulations and administrative procedures establishing a licensing regime with specified criteria as a condition of the granting of the licence, including:

- Registration on the basis of a series of criteria relating to qualifications and eligibility of the licensee (e.g., no criminal record), and ability to maintain secure facilities;
- Requirements for the security of the manufacturing facility, the type and scale of production, record-keeping, marking of weapons, etc.;
- Requirement to submit a periodic report;
- The requirement to cooperate with requests for information by the licensing authorities;
- The requirement for prompt notification to the designated authority of a divergence from a licensing condition.

In some cases State authorities, in order to strengthen governmental control over small arms and light weapons, have limited the number of authorized producers.

36. Record-keeping requires the establishment of appropriate monitoring and auditing systems. The licences authorizing the manufacture of small arms and light weapons could contain obligations to maintain comprehensive records subject to national verification and/or audit (including qualifications of the licensee, the type model, calibre or gauge, and serial number of each completed firearm manufactured and the name of the purchaser and date of sale). Administrative and/or criminal penalties help ensure adherence to the system and allow for strict and determined action on the part of law enforcement agencies.

37. The advantage of this type of system is that it enables detailed oversight and close control by the State over the manufacture of small arms and light weapons. A full-fledged registration system requires systematic record-keeping, implying significant staffing and technical requirements for proper administration, by both authorities and manufacturers. Successful enforcement of the system may be hampered by a lack of resources. In addition, States in certain regions may exercise weak de facto control over territories under their legal jurisdiction, and cultural factors may also undermine implementation.

38. The application by manufacturers of reliable markings to each small arm and light weapon as an integral part of the production process and maintenance of detailed and accurate records are necessary to enhance the capacity to trace sources and lines of supply of weapons, to identify diversion points and leakages and to help monitor weapons flows of concern. In this regard, a unique, reliable mark at an essential part of the weapon, and recoverable if externally erased, is necessary for law enforcement purposes. As noted in the report of the Group of Experts on the problem of ammunition and explosives, marking of military-style ammunition in lots or batches is an important measure that enables the source of manufacture to be traced back to a particular factory, shift or production run.

39. Tracing is a national responsibility. International cooperation is essential for tracing. Consistent international approaches could address the problem of tracing. Options for bringing about compatible international approaches could include mutual acknowledgement of original marking systems and a

political commitment among participating States to identify elements of such a common approach. Although it is premature at the present time, at an appropriate time in the future, participating States could consider working towards the establishment of an international agreement on a tracing mechanism related to common principles of marking and record-keeping of small arms and light weapons. At the national level, countries could create obligations at some level of government to maintain detailed records for the manufacture, movements and transfers for each weapon, which would constitute a key element of systems for regulation, tracing and accountability. Requirements that manufacturers submit annual reports to the national State authorities about their production activities during the previous year could provide useful information and also help Governments to assess each manufacturer's performance in relation to national policies and regulations. These records could also assist in distinguishing the illegal from the legal manufacture of weapons, and in some countries might even serve to enhance internal security. Regular auditing by the national authority might give Governments a much clearer picture of the actual size of production.

40. Such records could further provide the basis for a useful voluntary information exchange and for confidence-building measures at the bilateral, regional or global level. Information on national laws, regulations and administrative procedures could be exchanged, for example, as could details of national contact points to facilitate cooperation and consultation. Lists of authorized manufacturers and dealers might also be voluntarily exchanged, perhaps together with information on national systems of marking and summary information relating to manufactured small arms and light weapons (such as national policy overviews). Such exchanges, once agreed upon, could usefully enhance information available to national authorities and could promote confidence-building among States at the bilateral, regional or global level. Information exchange could be complemented by voluntary bilateral and/or multilateral consultation and clarification mechanisms. Any regional or international monitoring system would have to be carefully implemented so as not to infringe upon the national sovereignty of States parties.

41. Licensing of production abroad is a legitimate commercial activity, especially under the present conditions of globalization. It is also linked with national security considerations related to self-sufficiency in defence production. However, at times such production exceeds contractual limits or continues even after the expiry of the original licence. The small arms and light weapons thus produced could contribute to, and indeed have contributed to, excessive and destabilizing accumulations and transfers. Most countries require that a licence is sought for the export of controlled technology for the production of small arms and light weapons. Some also limit production in the terms of the commercial contract and do not allow re-export without prior approval. However, in some cases, in particular in the context of the cold war, production facilities have been licensed abroad without due care to excessive and destabilizing production and transfer possibilities.

42. The challenge is to restrict the possibility of irresponsible transfers from licensed production facilities without compromising the legitimate security and commercial interests that underpin such arrangements. One option is to clearly underline that licensed manufacture is subject to the authority of the State within which the manufacture takes place, as per the considerations discussed above. Secondly, the same considerations that apply to export licensing of small arms and light weapons should also apply to the grant of permissions for licensing small arms and light weapons production abroad. In addition, States could under national export controls assure themselves that contractual obligations relating to export from such facilities obviate possibilities of uncontrolled production or transfer. Finally, the importing and exporting countries (of the licensed production facilities) could cooperate in addressing possible small arms and light weapons proliferation issues.

43. There is substantial scope for developing information exchange and transparency arrangements as confidence-building measures. This could be arranged without revealing information that might endanger national security or legitimate commercial interests, or undermine law enforcement efforts. These arrangements can be achieved through the careful definition of the types of information to be exchanged as well as through appropriate restrictions on access to exchanged information. Bilateral and international cooperation could assist in demonstrating the utility of the domestic regulation of production and the appropriate form and content of national law.

### 2. Illicit manufacture

44. The effectiveness of measures to regulate legitimate small arms and light weapons manufacture is increased when accompanied by complementary measures to combat and prevent illicit production. Illicit production relates to unauthorized manufacture within authorized facilities as well as to unauthorized manufacture outside authorized facilities, and includes:

(a) Non-declared output;

(b) Output in excess of the authorized volume;

(c) Production of unmarked or inadequately marked weapons;

(d) The diversion of non-conforming output;

(e) The diversion or loss of arms rejected and designated for destruction;

(f) Unauthorized assembly of imported spare parts.[5]

45. Control over the manufacture of small arms and light weapons is complicated by the existence of craft manufacture, and particularly by the relative lack of control or data on such craft production in numerous countries. In principle, craft manufacture does not pose any special challenge as long as it is authorized and as long as it is devoted to the production of weapons for museums, ceremonial, hunting, sporting and related purposes. However, in some regions such manufacture is beyond government control and extends to sophisticated weapons that are sold or transferred without State control. In some countries, non-State actors or insurgents may have significant production capability.

46. Compliance with the procedures for authorized manufacturing will be facilitated by appropriate legal sanctions imposed upon anyone who engages in weapons manufacturing without required authorization. Criminal sanctions, which require a high evidentiary standard, might be considered exclusively for the most serious violations. Administrative penalties could be available for minor offences.

47. The Expert Group took note of the fact that it did not have before it systematic information, particularly primary source data, on small arms manufacturers. In respect of illicit manufacture, the Group was of the view that the nature and extent of the problem could most usefully be assessed in specific regional contexts. States could also consider compiling information on craft manufacture, including illicit production. In that regard, the Group noted in particular that case studies would have been of considerable utility in assessing the extent of the problem of unauthorized/illicit manufacture in small workshops, and by backyard manufacturers and other itinerant producers of small arms. The Group believes that the undertaking of such case studies, without jeopardizing commercial confidentiality or national security, could be an important follow-on activity of the present study. Some research institutes collect and store primary source data on small arms manufacturers. Some of that information could assist States in gaining better insight into this problem.

48. National registers of offenders could be established to keep track of individuals and companies convicted of violations of the relevant laws. Such information would assist in implementing and enforcing relevant national laws and regulations and could facilitate international cooperation in enforcement.

## B. Stockpiles and surplus weapons

49. Stockpiles and surplus weapons might be a source for illicit trade in some cases. States are responsible for ensuring proper control over State-owned stockpiles and designated surplus weapons as well as over stockpiles and surpluses held by persons/entities under their effective jurisdiction. If holdings of stockpiles by military and internal security forces are only maintained for legitimate security needs, there are fewer opportunities for diversion. Responsible storage practices and safeguarded destruction also help to ensure that no weapons are diverted and end up in the illegal sector. Given the range of difficulties in securing surpluses, one effective way of eliminating the risk of diversion or loss may be destruction.

50. Appropriate stockpile management and controls over the transfer of surplus weapons to Governments that manage their deployed and stockpiled weapons responsibly will help reduce theft and other diversions of weapons. The regular reassessment of national stocks (particularly after defence reviews and modernization decisions) could help State authorities to identify small arms and light weapons that are surplus to their national requirements.

51. Accounting, retrieval, marking and destruction, as appropriate, of illicit small arms and light weapons stockpiles from past transfer leakages, weapons caches, unauthorized manufacture, etc., contribute to more effective government control over illicit stockpiles.

52. States alone define on the basis of their national security requirements which weapons are designated surplus. Measures to deal with legal surplus weapons held in storage, awaiting decommissioning, demilitarization, civilianization, irreversible deactivation and destruction, include appropriate physical and technical procedures. These measures can help to prevent loss through theft, corruption or neglect. Any State upgrading or replacing existing stocks of small arms and light weapons could consider destroying the legally held surplus thus created. States that decide to export or transfer any surplus small arms and light weapons, not designated for destruction should follow the same stringent export control and authorization procedures that are followed for the export of fresh small arms and light weapons production from their territory.

53. There are several additional options for limiting the excessive and destabilizing accumulation and transfer of small arms and light weapons from stockpiles and surpluses. States might consider adopting, as a matter of national policy, the following:

(a) The destruction of all illicitly trafficked weapons that are seized, collected or confiscated (subject to the requirements for criminal prosecutions);

(b) The marking or destruction of all unmarked or inadequately marked weapons.

54. Adequate record-keeping at the national level relating to stockpiling and transfer is a key element for tracing, detecting and preventing the diversion or loss of small arms and light weapons, and can also assist in distinguishing illegal from legal stockpiles of weaponry. Regular inventory-taking may give Governments a much clearer picture of their deployed, deactivated or missing equipment.

55. Bilateral, regional and global assistance (financial and technical aid) to States in the area of record-keeping, weapons collection and controlling and destroying illicit surplus small arms and light weapons will improve State capacity and help reduce the circulation and excessive accumulation of this weaponry. International cooperation and assistance may support the improvement of basic police and customs services to combat the illicit manufacturing and trade of small arms and light weapons. The collection of illicit surplus weapons or weapons in uncontrolled circulation can help lower the level of violence and improve human security.

## C. Trade, including brokering and related activities

### 1. Trade

56. Legal trade and transfer of arms is and will remain in the foreseeable future an essential means of meeting States' security needs and concerns. The transfer of small arms and light weapons internationally is often facilitated by arms brokers, who provide an important and lawful service for both the seller and the buyer. However, in some areas, by exploiting existing legislative and administrative gaps and unregulated grey areas, they facilitate illicit deals in violation of international norms and national laws and regulations governing these activities. Effective national systems to control the export, import, transfer, transit and retransfer of small arms and light weapons and associated ammunition and explosives are a prerequisite to successfully countering these challenges. Customs authorities play an essential role in the enforcement of export, import and transit controls. Customs authorities therefore will need sufficient resources in order to remain vigilant and efficient in enforcing controls of small arms and light weapons.

57. The Expert Group has studied ways to restrict the trade in small arms and light weapons to States and State-authorized dealers and to control through law and administrative regulations small arms and light weapons dealers. At the minimum States could require specific authorization for dealing in small arms and light weapons and require dealers to maintain records of small arms and light weapons in stock or small arms and light weapons sold. Dealers should also be required to have small arms and light weapons marked at the stage of import, if markings are inadequate or non-existent. As for international trade, States could establish export and import control regimes, based on trade documentation resistant to fraud and misuse. There is great scope for improving documentation required for export and import licences and end-user certification and cross-referencing them with

transportation and other relevant documentation. In this regard, national perspectives in the area of best practices on trade documentation could be exchanged at the regional and international levels.

58. At a broader level voluntary restraint and greater responsibility in small arms and light weapons transfers could be pursued as well as consideration of voluntary information-sharing as appropriate, even though the voluntary provision of relevant information raises for many States a number of serious concerns that would have to be adequately addressed. States should have laws that enable them to enforce United Nations Security Council embargoes. States should also consider restraint in transfers to conflict-prone regions not subject to Security Council embargoes as well as to destinations without end-user certification or non-retransfer arrangements. Restrictions on small arms and light weapons transfers sought to be effected for reasons of national security are problematic. However, in the light of past experience, Governments could carefully evaluate the possibilities for diversion and retrieval as well as the possible impact on regional and international security before deciding upon such transfers. Although regional codes of conduct have embraced more wide-ranging guidelines for transfers, it is not realistic at this stage to envisage a global statement of best practices or a global code of conduct. This issue involves differing perspectives on State sovereignty and the discretionary nature of the criteria used. In this connection, the Expert Group noted the pertinence of the 1991 United Nations Disarmament Commission guidelines on international arms transfers.[3]

59. A commitment by Governments not to permit the transfer of inadequately marked weapons could be an important element of an effective international tracing arrangement. Marking at the stage of import could further assist in the rapid tracing of weapons. It would allow enforcement agencies to go to the last known importing State without having to revert to the original manufacturer, who would only be able to supply information on the original customer, which may be several steps removed from the last importing State. While there are technical and cost considerations to be taken into account in adopting such an approach, neither should be sufficient to render such an approach impractical.

60. In order to facilitate international cooperation on tracing sources of illicit supplies of small arms and light weapons, national focal points could be established. The focal points would work towards achieving national coherence and effectiveness and also help to promote international cooperation in curbing and preventing illicit trafficking and the illicit circulation of small arms and light weapons.

61. A small arms and light weapons register could be established at the national level in order to assist in information-gathering and information-sharing. States could submit to their respective national registers, for example, details of the type and models of small arms and light weapons transferred, the quantity, supplier and recipient country. In addition, they could include information on the manufacture, dealers, brokers, including transportation agents and financial transactions. One option could be to extend this register to the regional level. Prospects for such registers appear more promising in certain regional contexts, where agreements have been reached among States participating in their respective regional organizations to establish a small arms and light weapons register on a voluntary basis. A regional register could be more specific and address problems of weapons proliferation or control in that region. Nonetheless, such registers are only useful when a sufficient number of States subscribe to a particular register. The option of a United Nations register of small arms and light weapons was discussed. However, significant opposition continues to exist to a global register on the basis that it is premature and the provision of such sensitive information could undermine, not enhance, national security.

### 2. Brokering and related activities

62. The legal transfer of small arms and light weapons internationally is often facilitated by arms brokers. Arms brokering and its related activities (including the arrangement of financing and transportation) are an intrinsic part of the legal trade in small arms and light weapons. However, arms brokering, which is a largely unregulated activity, can also take place in grey areas between legal and illegal dealings. Some brokers deliberately exploit inconsistencies and gaps in national laws and administrative procedures to circumvent controls, and arrange transfers involving States where export control procedures and enforcement are weak. Some States prohibit brokering activities of their nationals within their territory. Many States do not have laws and

regulations in place to control brokering and related activities. Furthermore, attention has recently been drawn to the role that unregulated brokering activities have played in circumventing Security Council arms embargoes, and relevant Security Council expert panels have called upon States to ensure the effective regulation of such activities.

63. In order to be able to deal effectively with the challenges posed by the problems described above, States have at the minimum to ensure:

- Effective exercise of control within the limits of their territorial jurisdiction, on all arms trade activities, including brokering and related activities;
- A degree of international cooperation with a view to identifying and taking adequate measures against abuses and violations in this area, including in cases where their nationals are involved in problematic brokering or related activities.

In this context, national registers of offenders could be established to keep track of individuals and companies convicted of violations of the relevant laws and regulations.

64. In developing regulations and controls on brokering and related activities, States have several options to consider, and there are different mechanisms or measures that can be deployed.

(a) **Registration**. Among the regulatory options open to States is a registration requirement. Some States that already have controls on arms brokering and related activities operate a registration scheme, which usually applies to exporters as well as brokers. There are two basic models for such a register. The first would act as a source of information to Governments (and could be used for information-sharing with other Governments or bodies), but inclusion in such a register does not imply approval by national authorities, and there may be little provision for excluding brokers or others that provide the necessary registration information. The alternative would be a register that acted as a gateway to the exercise of the right to export or trade with eligibility conditions and from which exporters or brokers could be "struck off". The second alternative involves more stringent assessment but may present difficulties in relation to human rights legislation in certain jurisdictions, as may publication of the register. An alternative or complementary option would be certification in accordance with the procedures and methods of the International Organization for Standardization (ISO). Both registration and certification could be time limited, so that brokers would have to re-apply periodically.

(b) **Licensing**. Combined with a registration or certification scheme it would be necessary to license transactions in order to ensure proper control of brokering activities. Under either option for registration, a broker would not be able to apply for a licence until the licensing authority was in receipt of certain basic details about his business. A licence application from a broker for small arms and light weapons from one foreign country to another would be treated in much the same way as a licence application from an exporter.

(c) **Disclosure requirement**. To obtain greater knowledge of the intermediaries in deals involving small arms and light weapons, States could consider requiring applicants for export licences to provide full disclosure of any brokering agents involved. Administrative and criminal penalties could be provided as appropriate for failure to disclose relevant information.

65. The chart below describes a combination of provisions that may be required for licensing brokering and related activities based on location. It shows how registration, licensing and export control can be managed by various countries involved in the same operation.

## Impact of location on control of brokering

| | | *Country of residence or establishment of the broker* | *Country where the main brokering operation occurs (conclusion of the deal, contract)* | *Country of the seller, export* | *Country of the buyer, import* | *Control* |
|---|---|---|---|---|---|---|
| | Case 1 | A | A (2) | A | D | Full control of brokering and export operations by country A |
| | | Registration | Brokering licence (global or individual) | Export licence | Import licence and end-user certificate | |
| | Case 2 | A | A (2) | C | D | Control of brokering operations by A and control of export by C. Possibility of exchanging information between C and A |
| | | Registration | Brokering licence (global or individual) | Export licence | Import licence and end-user certificate | |
| Administrative regime applied by States A, B, C and D | Case 3 | A | B (1) (2) | B | D | Control of brokering and export operations by B |
| | | Registration | Brokering licence<br>Often prior to registration in B<br>Or often information given on the broker by A (individual licence if the broker is not registered in B) | Export licence | Import licence and end-user certificate | |
| | Case 4 | A | B (1) (2) | C | D | There is a need for an exchange of information between A, B and C, especially if the seller discloses the information on the broker to C |
| | | Registration | Same as above | Export licence | Import licence and end-user certificate | |

(Notes on following page)

*Notes*

(1) Issuing a licence in a country where the broker is not registered raises several problems, because registration should be a prior condition of licensing, so either country B recognizes the registration of the broker in country A, or B asks the broker to register before issuing the licence. Some States might consider that applying for a licence implies simultaneous registration without special procedures.

(2) The effect of a licence towards third countries must also be considered. A brokering operation is often scattered in several countries. There could be information given on the licence if requested by those third countries. In case of territorial application of the law, the licence can have effects only in the limits of the jurisdiction of the State, but the State of registration might want to know about all the operations in which its registered brokers are engaged, even in third countries. Therefore the registering State (A) might require a licence in any case, even if the deal is achieved in a third country.

*Case 1*: The broker is established and making the deal in country A; the goods that are the subject of the deal are exported from country A to country D.

*Case 2*: The broker is established and making the deal in country A; the goods that are the subject of the deal are exported from country C to country D.

*Case 3*: The broker is established in country A, and he is making the deal in country B; the goods are exported from country B to country D.

*Case 4*: The broker is established in country A and B, he is making the deal in country B; the goods are exported from country C to country D.

66. Generally, there are two broad options for controlling brokering and related activities that may be followed:

(a) To adopt controls that apply to all brokering and related activities carried out within the territory of the State and also by its citizens or by residents and companies established in that State regardless of where the brokering activity took place;

(b) To adopt controls that apply only to brokering activities carried out within a territorial jurisdiction of the State.

Under (b) controls could easily be evaded by residents crossing borders to neighbouring States with less rigorous controls or enforcement, conducting business there, and returning as soon as the business has been completed. Option (a) could apply to all that were resident in a country irrespective of nationality. There are various definitions of residency in international law, including residence, habitual residence and domicile, the first of which is the broadest. If option (a) were followed, it would be useful to reach a common understanding of the definition of residency to be adopted.

67. There are a number of options for the regulation of legal brokering:

(a) Individual licensing of every brokering deal and related activity;

(b) Individual licensing of an agreed set of brokering and related activities. This implies an understanding of which types of brokering and related activities require special attention. There are options for including or excluding marketing, promotion, advertising and similar information-related activities. There are diverse national approaches. The core brokering activities could be considered to be any key mediation role. It is difficult to be precise about all the detailed activities that should be covered, or when a licence would be required. Only with increased national experience in implementing and enforcing brokering regulations will it be possible to bring greater precision to the identification of core brokering activities;

(c) A degree of licensing flexibility; this would permit States some discretion and might be used for dealings involving close allies or collaborative defence projects. A licence would be granted for a given period to an individual broker, permitting deals concerning supplies of defined small arms and light weapons to a number of destinations. States would nevertheless still be expected to subject dealings to an appropriate level of control and review and would penalize infringement of licensing conditions.

68. Licensing of brokering and related activities raises the issue of the geographical scope of the licensing regime, as set out in the above chart. An option exists for States to require their nationals, whether residing or not in their territory, to act in compliance with national brokering legislation. This approach involves the extraterritorial application of the brokering law. Such a law would therefore cover nationals engaging in illicit brokering activities in third countries with weak national legislation. Many States are reluctant to endorse or adopt such powers, and there are significant practical problems with enforcement. However, in certain areas of special international concern (e.g., sex tourism and sexual exploitation of children as well as binding United Nations arms embargoes), extraterritorial jurisdiction has been accepted by the international community as a necessary and appropriate means of combating such practices. These legal obligations could also act as a precedent for extending extraterritorial controls to the area of arms brokering and related activities.

69. **Transportation.** Related activities associated with brokering include arranging the transport of arms and the involvement in actual transport (ownership, leasing or operation of planes/ships, etc.). Of those States that already have controls on brokering, most do not currently go so far as to control these activities unless the provider of one or more of these services is also the principal in the brokering deal (as opposed to a service provider to the broker). However, the non-regulation of these activities can lead to the transfer of arms into regions of conflict. Controls on the transport of arms could be integrated into controls on arms brokering. Alternatively, distinct controls could apply to transport. Effective customs control of entry/exit checkpoints of States acquires particular importance in this context.

70. The recent reports to the Security Council on violations of the UNITA and Sierra Leone sanctions highlighted the role that air transport can play in the circumvention of arms embargoes. The simplest approach to this problem would be for States to prohibit and penalize those under their jurisdiction that take part in the transport of arms to destinations and

entities subject to Security Council arms embargoes. It would add no burden to the licensing process.

71. While such an approach would enable States to strengthen the enforcement of United Nations arms embargoes, it would not enable them to exercise control on the transport of arms by legal persons under their jurisdiction to other destinations, including those where there was a real or potential threat of the build-up of excessive and destabilizing accumulations of small arms and light weapons. To achieve some measure of control over these activities, one approach could be to impose a licensing obligation on the shipment of arms by air. States might decide to control shipments originating in or passing through their territory. Alternatively, or in addition, they might decide to target the transport of arms by legal persons under their jurisdiction between destinations in third States. Such a procedure would necessitate the imposition of extraterritorial controls but might prove to be useful in detection or in enabling a State to prosecute those who had undertaken acts in contravention of its laws. Targeting shipments made from or via their own territory would require an additional set of controls to supplement normal export licensing procedures. Such dual licensing would add to the bureaucratic burden but might not necessarily do much to improve the detection of illicit shipments.

72. Ideally, the company or individual ultimately involved in the physical shipment of the arms would be responsible for applying for a licence, although the level of subcontracting in this area could perhaps provide the cover for evasion of responsibility by airfreight companies. To prevent instances of multiple licensing the requirement to apply for a transport licence might be imposed only in instances where the shipment had not already been approved by a State through the granting of a brokerage licence. However, it should be noted that the airfreight industry works to very short deadlines. It is not uncommon for details of ad hoc charters (the mode most likely to be used for larger arms shipments) to be sent to aviation authorities for approval with less than two days' notice. Most export licensing authorities do not have the procedures in place to be able to work to such short deadlines. If a State imposed such a requirement on its shipping agents and airlines without first addressing the question of the time taken to make licensing decisions, it would effectively be ruling them out of participation in the transport of arms.

73. An alternative approach, which would provide some information on participation in the transport of arms, would be to impose a requirement on a broker to disclose details of agents, airlines and routes to be used. At the licence application stage a broker would, in many cases, be unlikely to be able to provide such detailed information. However, a State might adopt a procedure for indicating approval in principle for a particular deal, with a licence not being issued until all relevant information had been provided. Alternatively, a condition could be added to the licence requiring a broker to provide such information prior to the shipment taking place. If the information was not received by the licensing authority, the broker would have committed an offence. This disclosure exercise would of course not bring to light those deals where a State's shipping agents/airlines participated but a broker under their jurisdiction did not.

74. Another approach would be to encourage the adoption of a code of conduct by the industry. A code could set out undertakings to provide comprehensive and accurate information on the cargo and flight plans in the relevant documentation that accompanied shipments of arms. It could also include an undertaking not to ship arms to destinations where there was a risk that they could be used in conflict, etc. However, asking industry to make the sort of judgements that are normally the province of States would need further consideration. The other problem with this approach is that such a voluntary agreement would have a limited impact on those routinely engaged in the illicit shipment of arms by air.

75. Another alternative would be to scrutinize closely international agreements and domestic legislation already available to control the airline industry. The lucrative nature of illegal air shipments of small arms and light weapons does lure some aircraft owners and agents into filing false flight plans and flying small arms to hot spots. To combat this practice there is a need for authorities in the exporting State, or at stops en route, to verify flight plans, in particular those of cargo aircraft on ad hoc charters. The authorities in the exporting State should be able to request a copy of the landing permit or certificate from the authorities in the importing State indicated in end-user documentation. Consideration could be given to encouraging, and in some instances assisting, national administrations in enforcing current civil aviation regulations more effectively. For instance, States could ensure that

procedures for issuing certificates of airworthiness for individual aircraft on civil aircraft registers, procedures for issuing air operator certificates to airlines, regulations on carriage of dangerous goods and requirements for insurance were all stringently enforced.

76. Lastly, in addition to, or instead of, the licensing of transportation agents (as part of brokering activities), an internationally agreed transportation regulation, similar to transportation agreements for the shipping of toxic waste and hazardous products, might help to prevent the diversion of small arms and light weapons while in transit.

77. Shipment of arms by sea raises a different set of problems. The industry has traditionally been less closely regulated than the air transport industry. The measure discussed in paragraph 76 could be adopted or the feasibility of introducing regulations under the auspices of IMO could be explored to control illicit brokering through free ports and by those ships using flags of convenience.

78. **Finance.** Special arrangements (such as the registration and licensing of financial agents or the disclosure of documentation associated with the financing of arms deals) might be useful in the control of the financing of arms transfers. Just as the option exists in the regulation of dealers and transportation agents to require full disclosure of documentation as a condition of their registered individual brokering licence, this could be applied to financial transactions as well. However, it is problematic and difficult to require licences for individual banking transactions. Another option is examining special investigative powers given by States to their law enforcement agencies. The regulation in force to combat the laundering of illegal drug proceeds can similarly be applied for the financing of illicit small arms and light weapons transactions and the laundering of illegal proceeds of those transactions. Relevant organizations, such as the International Criminal Police Organization — Interpol or EUROPOL could cooperate closely in the identification of the groups and individuals engaged in financing illicit trafficking in small arms and light weapons. One option could be the establishment of financial information units (FIUs) or centres for financial data processing at a national level. Furthermore, efforts could be made to promote the exchange of information between the established FIUs at a regional and international level. Eventually all exchanges of information could take place between the national FIU and the national focal points.

79. There is a further need for all States to consider ways to avoid gaps and inconsistencies in national approaches that may undermine the effectiveness of controls, by identifying good practices and developing common approaches or agreed minimum standards to overcome the problem of extraterritoriality. Common principles could be sought on registration procedures, the content of licences and definition of offences. Exchange of information could be organized. One way to promote the adoption of such national controls on brokering and related activities and to achieve the necessary consistency and agreed minimum standards of such national controls is through agreement by States to agreed approaches through a political document such as a statement of best practice, which States would agree to follow when developing legislation and controls in this area.

80. This option would not impose a legally binding duty on all States to introduce controls and might therefore stand a greater chance of early adoption. However, as it would not legally bind States to introduce controls, it might lead to less stringent implementation. The negotiation by States of a legally binding international instrument, which establishes the norms and principles that States agree they should adopt, was discussed. However, the lack of sufficient national experience with brokering regulation, together with the variety of national approaches to brokering control and the lack of agreed criteria, might make it difficult to achieve a legally binding agreement at this time. The regional level might be the most promising to implement international action in the short term. At that level there might be mutual recognition of registered brokers and brokering licences. Whichever approach was adopted by States, its effectiveness would be enhanced by well-defined undertakings to which States would agree and the existence of adequate support mechanisms.

81. The measures identified by the Expert Group can best be implemented in the context of well-functioning police, judiciary, military forces and customs authorities.

82. The Expert Group noted that the necessary resources need to be made available nationally and through appropriate programmes for international cooperation and assistance to sustain proper controls

on the manufacture, circulation, trade and transfer of small arms and light weapons.

*Notes*

[1] *United Nations International Study on Firearm Regulation* (United Nations publication, Sales No. E.98.IV.2).

[2] The Group noted with regard to the concept of excessive and destabilizing accumulations of small arms and light weapons the report of the United Nations Panel of Governmental Experts on Small Arms (A/52/298, para. 37).

[3] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 42* (A/46/42), annex I, chap. III.

[4] Ibid., *Fifty-fourth Session, Supplement No. 42* (A/54/42), annex III.

[5] "Non-declared output" relates to production that is not declared, contrary to such requirements. "Non-conforming output" relates to production that does not meet the required standard. "Arms designated for destruction" relates to the fact that recently some manufacturers have been asked by their Governments to carry out feasibility testing on the commercial viability of destroying weapons and recycling the materials.

# Annex I

## Clarification of key terms

In seeking to clarify the meanings of key terms used in its study, the Expert Group drew, where appropriate, on definitions agreed in United Nations documents. In those cases where internationally accepted definitions have not yet been established, the Group reached a common understanding of those terms listed below.

**Ammunition and explosives** form an integral part of small arms and light weapons used in conflicts, and include cartridges (rounds) for small arms, shells and missiles for light weapons, anti-personnel and anti-tank hand grenades, landmines, explosives, and mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems (A/54/258, note 5). See also **Small arms and light weapons**.

**Authorization**. A State authorization consists of documentation in the form of a written permission issued by relevant State authorities that authorizes production, transfer of production rights, possession, trade, including brokering and transportation of small arms and light weapons, ammunition, and related or controlled materials, know-how and technologies. In the area of trade, such documentation normally specifies the quantities and types of controlled items that may be exported or imported and their destination or origin, and includes restrictions and regulations concerning end-use and end-users. A "**negotiation permit**" is a document issued by relevant State authorities that authorizes persons or companies to negotiate a deal to transfer or trade in small arms and light weapons, ammunition, explosives and associated controlled technologies.

A **bill of lading** is a contract document between an exporter, an importer and the carrier. It is a negotiable document and whoever submits the original document to the carrier is considered the importer/owner. A **landing permit/certificate** is issued by an authority or agency in the importing State confirming that the goods/consignments have been received in the importing State.

**Brokering and related activities**. Individuals or companies acting as intermediaries between a supplier and a user may be performing one or more of the following roles: dealer, agent acting on behalf of manufacturers, suppliers or recipients, broker, transportation agent, or financial agent. **Dealers** buy and sell quantities of arms and associated items according to the demand of users. **Agents** acting on behalf of manufacturers, suppliers or recipients have a mandate to represent one of them and to conclude a contract in the name of that person. **Brokers** bring together a supplier and a recipient and arrange and facilitate arms deals so as to benefit materially from the deals without necessarily taking ownership of the arms or acting on behalf of one of the two parties. For the purposes of the present report, **transportation agents** are agents involved in arrangements for the transportation of the arms and associated goods, and include shipping agents and brokers, freight forwarders and charterers.

An **end-use certificate** is documentation which prescribes the use of material intended for transfer. An **end-user certificate/statement** is documentation used to verify the recipient of a transfer. An **international import certificate** is a document used to guarantee that the importer does not intend to divert, re-export or trans-ship imported material.

The terms "**excessive**" and "**destabilizing**" are relative and exist only in the context of specific regions, subregions or States. The mere accumulation of weapons is not a sufficient criterion by which to define an accumulation of weapons as excessive or destabilizing, since large numbers of weapons that are under the strict and effective control of a responsible State do not necessarily lead to violence. Conversely, a small number of weapons can be destabilizing under certain conditions (A/52/298, para. 36).

**Financial transactions** include all banking and related activities to arrange for the payment of the purchase of small arms and light weapons, their parts and components, ammunition and explosives, technologies and services. Payments may include credit arrangements, payment in non-financial transactions like resources; they may also be made in the form of barter.

**Grey markets** operate at the juncture between licit transfers and illicit trafficking. They comprise the following types of transactions in small arms and light weapons-related ammunition and/or explosives:

- Re-export of materials previously purchased legitimately;
- Triangulation of materials in contravention of end-user certificates (diversion of goods from the authorized destination to a third country);
- Commercialization by a broker who coordinates the operation between a supplier and a recipient (be it a State or a sub-national/transnational group).

**Illicit trafficking** in small arms and light weapons is understood to cover those international transfers in small arms and light weapons, their parts and components and ammunition, which are unauthorized or contrary to the laws of any of the States involved, and/or contrary to international law. Regulations or limitations on arms transfers can be found in national laws, binding international arrangements or treaties, and in binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations. **Illicit circulation** of small arms and light weapons refers to weapons in this category that are possessed or traded by individuals and non-State actors that are not authorized to possess, carry, trade or use them.

**Licensed production abroad** is a commercial arrangement entered into by a company that allows for the transfer of proprietorial rights (such as use of technology, trademarks, production equipment and processes) for the purpose of the manufacture or production of small arms and light weapons, which if they were exported directly from that country would be subject to export control. The company granting the licensed production might grant the right to use its name and any registered trademarks but need not necessarily do so. Similarly, it might also provide technical services, production equipment, components, sales and distribution networks and general business management techniques. The licensee might enter into a joint venture with the company granting the production rights. It might be a subsidiary of the company licensing production or an associated company, or the company granting the rights might have no legal relationship with the licensee other than entering into a commercial agreement in return for royalties.

**Manufacturers** are those that design, develop, produce, produce under licence, assemble, repair, maintain or modify small arms and light weapons (their parts and components) and ammunition and explosives.

**Manufacturing** consists of the design, development, production, assembly, licensed production and sublicensing, repair, maintenance or modification (including refurbishing and cannibalization) of small arms and light weapons, their parts and components and ammunition. **Illicit manufacturing** refers to manufacturing: (a) from parts and components illicitly trafficked; (b) without a licence or authorization from a competent authority of the State in which the manufacture or assembly takes place; or (c) without marking, with inadequate marking or with duplicated or falsified marking of small arms or light weapons at the time of manufacture.

**Small arms and light weapons**. The Expert Group followed the practice of the Panel of Governmental Experts on Small Arms (A/52/298) and the Group of Governmental Experts on Small Arms (A54/258). The small arms and light weapons which are of main concern for the purposes of the present report are those which are manufactured to military specifications for use as lethal instruments of war. Small arms and light weapons are used by all armed forces, including internal security forces, for, inter alia, self-protection or self-defence, close- or short-range combat, direct or indirect fire, and against tanks or aircraft at relatively short distances. Broadly speaking, small arms are those weapons designed for personal use, and light weapons are those designed for use by several persons serving as a crew. Based on this broad definition and on an assessment of weapons actually in conflicts being dealt with by the United Nations, the weapons addressed in the present report are categorized as follows: The category of small arms includes revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns. Light weapons include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of calibres of less than 100mm (A/52/298, paras. 24-26). **Parts and components** are defined as any element or replacement element specifically designed for a small weapon or a piece of light weapon and essential to its operation. See also **Ammunition and explosives**.

**Stockpiles** are understood to be weapons held by military and police forces in storage, for deployment in the forces, for sale or decommissioning, as well as those weapons held by appropriately authorized non-State actors. **Holdings** include all weapons held by the armed and police forces, including those deployed and in storage.

**Surplus weapons** refers to serviceable and unserviceable small arms and light weapons held in stockpiles by military, police and other government forces, and the illicit weapons seized by them, which they no longer need. States alone decide which weapons are considered surplus, based on their legitimate security needs.

**Technologies** are understood to be technical data and information, software, blueprints and other know-how and machinery which is required or is being developed for the design, development, manufacture, assembly, operation, repair, testing, maintenance or modification of small arms and light weapons.

# Annex II

## List of acronyms

| | |
|---|---|
| **EAPC** | Euro-Atlantic Partnership Council |
| **ECOWAS** | Economic Community of West African States |
| **EUROPOL** | European Police Office |
| **FIU** | financial information unit |
| **IED** | improvised explosives device |
| **IMO** | International Maritime Organization |
| **ISO** | International Organization for Standardization |
| **NATO** | North Atlantic Treaty Organization |
| **NGO** | non-governmental organization |
| **OAU** | Organization of African Unity |
| **OAS** | Organization of American States |
| **OSCE** | Organization for Security and Cooperation in Europe |
| **UNITA** | União Nacional para a Independência Total de Angola |

# Annex III

[Original: English/French]

## Relevant national legislation and regulations circulated to the Expert Group*

### Argentina

Argentinian Legislation Guidelines, Administrative Procedures and Registration Technique Applied to Small Arms

"National Register of Arms, Ministry of Defence, Presidency of the Nation"

### Belgium

Belgium's National Practices

Unofficial coordination of the Law of 3 January 1933, on the production of, the trade in and the possession of weapons and on the trade of munitions, modified by the Laws of 29 July 1934, 4 May 1936, 6 July 1978, 30 January 1991 and 5 August 1991

Law of 5 August 1991 concerning import, export and transit of weapons, munitions and special material for military use and related technology

Convention relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime

28 mai 1956: Loi relative aux substances et mélanges explosibles ou susceptibles de déflagrer et aux engins qui en sont chargés, modifiée par Ordonnance (Bruxelles) du 30 juillet 1992

11 janvier 1993: Loi relative à la prévention de l'utilisation du système financier aux fins du blanchiment de capitaux

11 juin 1993: Arrêté royal relatif à la composition, à l'organisation, au fonctionnement et à l'indépendance de la cellule de traitement des informations financières

11 juin 1993: Arrêté royal portant nomination des membres de la cellule de traitement des informations judiciaires

10 août 1998: Loi modifiant l'article 327 bis du Code judiciaire et la loi du 11 janvier 1993 relative à la prévention de l'utilisation du système financier aux fins du blanchiment de capitaux

10 janvier 1999: Loi relative aux organisations criminelles

### Bulgaria

Elements of the current Bulgarian legislation which form the legal framework for the secure production and storage of arms (including small arms and light weapons) and dual-use goods in the territory of the Republic of Bulgaria (in chronological order)

* This list is being circulated in the languages of submission only.

Dual-Use and Arms Licensing System in the Republic of Bulgaria

Outline of Bulgarian Export Control Legislation and Institutional Arrangements regarding Foreign Trade in Arms and Dual-Use Goods and Technologies

Decree No. 38 of 6 March 1996 for adoption of the Regulation of implementation of the Law on control of the foreign trade activity in arms and dual-use goods and technologies and for the amendment of legal acts of the Council of Ministers

Republic of Bulgaria, Law on the Control of Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies

**France**

Décret-loi du 18 avril 1939 fixant le régime des matériels de guerre, armes et munitions

Décret du 6 mai 1995 modifié à l'application du décret du 18 avril 1939 fixant le régime des matériels de guerre, armes et munitions

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